IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

CHURCH OF SCIENTOLOGY, INTERNATIONAL, Plaintiff/Respondent, vs. GERALD ARMSTRONG, Defendant/Appellant.	NO. A075027

CLERK'S TRANSCRIPT ON APPEAL

FROM A JUDGMENT MADE AND ENTERED

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

MARIN COUNTY COURTS

VOLUME 19

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

MARIN COUNTY COURTS

DEPARTMENT 1

CHURCH OF SCIENTOLOGY, INTERNATIONAL,)
Plaintiff,)
)
vs.)
)
GERALD ARMSTRONG,) No. 157680
Defendant.)
)

GARY W. THOMAS	JUDGE
JOHN P. MONTGOMERY	COURT EXECUTIVE OFFICER
ELAINE PASSARIS	REPORTER

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation;

Plaintiffs,

vs.

GERALD ARMSTRONG; DOES 1 through 25, inclusive,

Defendants.

No. BC 052395

AMENDED ANSWER OF GERALD ARMSTRONG AND THE GERALD ARMSTRONG CORPORATION TO AMENDED COMPLAINT

Defendant Gerald Armstrong, hereinafter "Armstrong," and The Gerald Armstrong Corporation, hereinafter "TGAC," defendants, hereby jointly submit the following amended answer to the amended complaint of plaintiff, CHURCH OF SCIENTOLOGY INTERNATIONAL, hereinafter "CSI." Although the following Answer may be framed in the singular, it shall be interpreted to refer to both answering defendants unless the referred to event took place before July

1987, in which event said allegation shall apply to Gerald Armstrong as an individual only because prior to said date TGAC did not exist.

1. Armstrong admits there was a settlement agreement entered into in December, 1986, but denies each and every allegation of the rest of this paragraph. Armstrong's only actions have been those necessitated by the violations by the Scientology organization, including CSI, hereinafter the "ORG," of the express terms and spirit of the settlement agreement. It is the ORG which has embarked on a deliberate campaign to breach the provisions of the agreement, and foment litigation, hatred and ill-will against ARMSTRONG.

2. Armstrong admits that he entered into a settlement agreement with the ORG in December 1986 of his cross-complaint in Church of Scientology of California v. Gerald Armstrong, Los Angeles Superior Court No. C 420 153 hereinafter Armstrong I. Armstrong denies that the agreement was for the benefit of numerous third-parties; he asserts that the agreement is to constitute a fraud on courts, nationally and internationally, and upon the public of the World. Armstrong denies that the description of the ORG as a church is true. Armstrong denies CSI's description of him. It is the ORG which sought by litigation and covert means to disrupt Armstrong's activities and life, and which displayed through the years an intense and abiding hatred for Armstrong, and an eagerness to annoy and harass Armstrong by spreading enmity and hatred about him among its employees, customers, victims, in the media, the courts and the world. Armstrong denies that the ORG sought to end Armstrong's covert

activities, because there were no such covert activities, nor to end the litigation. Armstrong denies that the agreement contained carefully negotiated and agreed-upon provisions. Armstrong was not included in one word of the negotiations, which were engineered by the ORG through the compromise of Armstrong's attorney. Armstrong never agreed to the conditions, but did agree with the representations of his attorney that the conditions were unenforceable. Armstrong denies that the ORG bargained for the settlement provisions to put an end to enmity and strife generated by Armstrong because Armstrong generated no such enmity and strife.

3. Armstrong denies that this action arises from his deliberate and repeated breaches of provisions of the agreement. Armstrong denies moreover that he can violate the agreement because its provisions are contrary to public policy and illegal. Armstrong denies that the ORG fully performed its obligations under the agreement; rather, it violated both the letter and spirit from the date of its signing. Armstrong denies that he never intended to keep his part of the bargain. Armstrong admits that, based on the representations of his lawyer that the referenced provisions were unenforceable and that the ORG lawyers also knew they were unenforceable, he also considered said provisions unenforceable. Armstrong denies that he ever extracted money from the ORG. Armstrong denies that in June 1991 he had finished spending his money. In August 1990 Armstrong had given away all his assets for reasons unrelated to the ORG, except that he evaluated that because the ORG committed so much harm with its billions of dollars there was no reason not to give his money

away, and that it was better to combat the ORG's tyranny without money than not to combat it with wheelbarrow loads of it. Armstrong denies that in June, 1991 he began any campaign, provided any confidential information to anyone, copies of any agreement, declarations, and paralegal assistance to any litigants. Armstrong denies that the ORG repeatedly demanded that Armstrong end his constant and repeated breach of the provisions of the agreement. There has never been a constant and repeated breach of the provisions of the agreement by Armstrong, nor has there ever been a repeated demand from the ORG.

4. Armstrong denies that the ORG bargained for peace. Armstrong admits that the ORG requests liquidated damages, but denies that the ORG is due such damages pursuant to the terms of the agreement, and states that said liquidated damages are invalid. By its acts in violation of the agreement the ORG has sacrificed its right to any relief, including damages. It is Armstrong who is due liquidated damages. Armstrong denies that the ORG requests injunctive relief to prevent additional and future breaches by Armstrong. There have been no breaches by Armstrong and there can be no future breaches by Armstrong because of the ORG's violations of the agreement and because the agreement itself is contrary to public policy and illegal.

5. Armstrong denies CSI's description of itself. Armstrong admits that CSI is incorporated under the laws of the State of California and has its principal offices in Los Angeles. Armstrong denies that Scientology is a religion. Scientology employs a self-ascribed religious status so as to exploit the extraordinary benefits conferred by the religious liberty clauses

of the First Amendment to the United States Constitution.

6. Armstrong admits that he is a resident of Marin County, California.

7. Armstrong lacks knowledge or information sufficient to form a belief as to the truth of the averments in this paragraph and is therefore unable to admit or deny the same.

8. Armstrong admits the truth of the averments in this paragraph.

9. Armstrong admits that the agreement was entered into with the participation of respective counsel, but denies that it was after full negotiation. Armstrong denies that the provisions of the agreement were carefully framed by the parties and their counsel to accurately reflect the agreement of the parties. Armstrong only participated in the framing of one provision in the agreement, the one allowing him to keep his art. Armstrong was, in fact, carefully kept in the dark concerning the settlement provisions by the ORG and his counsel. The provisions, moreover, do not contain the actual agreement of the parties concerning their unenforceability. Nor do they contain the agreement whereby the ORG contracted with Armstrong's lawyer to not represent him in future litigation regarding the agreement. And they do not contain the agreement whereby Armstrong's lawyer would assist the ORG in allowing it to attack Armstrong without his response, nor the side indemnity agreement and other agreements with Armstrong's lawyer for a collusive appeal and rigged retrial of the underlying action. The purpose of the agreement was to engineer a reversal of Judge Breckenridge's 1984 decision holding for Armstrong on Scientology's complaint against Armstrong in Armstrong I.

10. Armstrong denies the totality of this paragraph. There never was a series of covert activities by Armstrong intended to discredit ORG leaders, spark government raids, create phony "evidence" of wrongdoing against the ORG and ultimately destroy the ORG and its leadership.

11. Armstrong admits that when asked by ORG lawyer Lawrence Heller during the videotaped signing of the settlement agreement if he was acting of his own free will he said he was. Armstrong was, however, under great duress resulting from years of ORG abuse, threats and attacks, his manipulation by the ORG through his attorney as a deal-breaker during the settlement, and his knowledge of ORG policies of hatred and vindictiveness. Armstrong denies that in later 1991 he revealed for the first time that he believed at the time the agreement was signed the provisions were unenforceable. Armstrong put his opinion of the provisions' unenforceability in his declaration dated March 15, 1990, which the ORG received within a week of that date. Moreover, Armstrong's lawyer, Michael Flynn, advised Armstrong that he had advised the ORG in December 1986, before the agreement was signed that the provisions were unenforceable.

12. Armstrong does not answer these allegations of this paragraph inasmuch as they have been stricken by court order.

13. Armstrong admits the averments of this paragraph.

14. Armstrong admits the averments of this paragraph.

15. Armstrong admits the averments of this paragraph.

16. Armstrong denies each and every averment of this paragraph.

17. In answering the averments contained in this paragraph

wherein CSI adopts by reference paragraphs 1 through 16 of its averments, Armstrong admits, denies and avers to the same effect and in the same manner as he admitted, denied and averred with respect to those specific paragraphs as previously set forth in this answer.

18. Armstrong admits the averments of this paragraph, but denies that the Aznarans were Scientology parishioners; they were Scientology victims. Scientology is not a religion.

19. Armstrong admits the averments of this paragraph.

20. Armstrong admits that while Yanny was acting as the Aznarans' counsel he asked Armstrong to help him, but denies that Yanny hired him as paralegal to work on the Aznaran case.

21. Armstrong admits that he agreed to travel to Los Angeles from Marin Country but denies that he asked Yanny to pay him $500.00 for his proposed help.

22. Armstrong admits the averments of this paragraph except that he denies that he provided "paralegal assistance." Armstrong did assist in drafting two evidentiary declarations, which he personally executed as a witness.

23. Armstrong lacks knowledge or information sufficient to form a belief as to the truth of the averments in this paragraph and is therefore unable to admit or deny the same.

24. Armstrong denies each and every averment of this paragraph.

25. Armstrong denies each and every averment of this paragraph. Whatever assistance Armstrong gave Yanny in the Aznaran litigation caused the ORG no damage, but assisted it in its publicly stated goal of peace.

26. In answering the averments contained in this paragraph wherein CSI adopts by reference paragraphs 1 through 16 and 18 through 25 of its averments, Armstrong admits, denies and avers to the same effect and in the same manner as he admitted, denied and averred with respect to those specific paragraphs as previously set forth in this answer.

27. Armstrong admits the averments of this paragraph except that he denies that Yanny indicated to CSI's counsel that he represented Armstrong, and Armstrong denies that there exists any order of injunction prohibiting Yanny from representing Armstrong in any manner whatsoever in any matters relating to anyone.

28. Armstrong lacks knowledge or information sufficient to form a belief as to the truth of the averments in this paragraph and is therefore unable to admit or deny the same.

29. Armstrong denies each and every averment of this paragraph. Armstrong adds, moreover, that if, as the ORG alleges, the Court in RTC v. Yanny rejected Yanny's defense which was supported by Armstrong's declarations, Armstrong could not with those declarations have aided Yanny.

30. Armstrong admits that he attached the settlement agreement to his July 16, 1991 declaration as an exhibit, but denies that he had agreed to keep the terms of the agreement confidential. Armstrong was under duress when signing the agreement and did not ever agree with the unenforceable conditions of the agreement including confidentiality regarding the agreement itself. Nevertheless, he did not discuss the agreement until after it was made public by the California Court of Appeal. Armstrong filed the agreement under seal in the Court of Appeal in

February, 1990 in order to prevent a fraud upon the Court being perpetrated by the ORG, and it was the Court of Appeal which sua sponte unsealed the agreement. But prior to filing the agreement in the Court of Appeal, Armstrong had already been relieved of any conceivable obligation to keep the agreement confidential by the ORG's divulging of its contents in other litigations, and therefore waiving any right to have it remain confidential thereafter.

31. Armstrong admits that he has never paid the ORG $50,000, but denies that the ORG has ever demanded payment of $50,000, denies that he owes $50,000 to the ORG for anything and denies that whatever he has done at any time was a breach of the agreement. The agreement is illegal and against public policy and the ORG has by its own acts sacrificed any right it ever may have had to enforce any of its provisions.

32. In answering the averments contained in this paragraph wherein CSI adopts by reference paragraphs 1 through 16, 18 through 25 and 27 through 31 of its averments, Armstrong admits, denies and avers to the same effect and in the same manner as he admitted, denied and averred with respect to those specific paragraphs as previously set forth in this answer.

33. Armstrong admits the averments of this paragraph.

34. Armstrong admits that in August 1991 he began working in Ford Greene's office and that his paralegal duties at that time involved work on the Aznaran case. Armstrong denies that thereafter the Aznarans hired John Elstead. Armstrong admits that his employment in Greene's office has continued to the present, but he denies that his activities constitute a daily and

continuing breach of any contract. The ORG's bargain has been rendered a nullity, because it is the ORG which has, through its attacks on Armstrong, its overweening reliance on Fair Game and similar antisocial policies, and its attempt to force upon the world an agreement illegal in the first place, done it to itself.

35. Armstrong denies each and every averment of this paragraph.

36. In answering the averments contained in this paragraph wherein CSI adopts by reference paragraphs 1 through 16, 18 through 25, 27 through 31 and 33 through 35 of its averments, Armstrong admits, denies and avers to the same effect and in the same manner as he admitted, denied and averred with respect to those specific paragraphs as previously set forth in this answer.

37. Armstrong admits the averments of this paragraph except that he denies that any of his actions are violations of the agreement and that he is required to pay the ORG one penny in liquidated damages.

38. Armstrong admits that he has not paid the ORG $50,000, but denies that the ORG ever made a demand for $50,000 and denies that whatever he has done is a breach of the agreement.

39. In answering the averments contained in this paragraph wherein CSI adopts by reference paragraphs 1 through 16, 18 through 25, 27 through 31, 33 through 35 and 37 and 38 of its averments, Armstrong admits, denies and avers to the same effect and in the same manner as he admitted, denied and averred with respect to those specific paragraphs as previously set forth in this answer.

40. Armstrong admits the averments of this paragraph except

that he denies that the press release violated the agreement and that the press release constituted disclosures of his experiences with Scientology. Statements containing the same facts and similar language are contained in the public file in this case in which the ORG has sued Armstrong; therefore there is in the press release no disclosure. Moreover, the ORG, by itself using Armstrong's experiences in its litigations and to attack Armstrong after the settlement lost any right it may have once had to complain of Armstrong's discussing his experiences to counter its attacks. The agreement's confidentiality provisions are antithetical to civilized conduct, impossible to perform, contrary to public policy and illegal.

41. Armstrong admits the averments of this paragraph except that he denies that the distribution of the press release violated the provisions of the agreement. By suing Armstrong publicly, by attacking him publicly and by making public itself the conditions of the agreement, including filing the agreement in open court, the ORG waived any right it may have once had to object to Armstrong's public discussion of the litigation or the agreement it concerned. The agreement, moreover, is illegal; therefore it is unenforceable and Armstrong is not bound by any part of it.

42. Armstrong denies each and every averment of this paragraph.

43. In answering the averments contained in this paragraph wherein CSI adopts by reference paragraphs 1 through 16, 18 through 25, 27 through 31, 33 through 35, 37, 38 and 40 through 42 of its averments, Armstrong admits, denies and avers to the same effect and in the same manner as he admitted, denied and averred

with respect to those specific paragraphs as previously set forth in this answer.

44. Armstrong admits that on March 20, 1992 he and Greene granted the media interviews, but denies that such interviews were additional. Armstrong denies that any such interviews violated any part of the agreement. Armstrong admits that he stated that he is an expert in the misrepresentations Hubbard made about himself from the beginning of Dianetics until the day he died. Armstrong admits that he is such an expert. Armstrong lacks the information and knowledge sufficient to form a belief as to the truth of the averment in this paragraph that Exhibit C to the ORG's complaint is a true and correct transcription of the CNN broadcast and is therefore unable to admit or deny the same.

45. Armstrong denies each and every averment of this paragraph.

46. In answering the averments contained in this paragraph wherein CSI adopts by reference paragraphs 1 through 16, 18 through 25, 27 through 31, 33 through 35, 37, 38, 40 through 42 and 44 and 45 of its averments, Armstrong admits, denies and avers to the same effect and in the same manner as he admitted, denied and averred with respect to those specific paragraphs as previously set forth in this answer.

47. Armstrong admits that he agreed to appear voluntarily as an expert witness in the Hunziker case. He denies that his expertise is alleged and denies that his expertise is such that it should be set off in the ORG's complaint in quotation marks. He denies that his expertise is in Scientology, but rather in the fraud of Scientology and the ORG's doctrine of Fair Game.

Armstrong admits that the World Institute of Scientology Enterprises, Inc. is named as a defendant in the Hunziker case, admits that it is an ORG dominated entity, but denies that it, nor any other ORG entity, is protected by the agreement.

48. Armstrong admits that he met with Rummonds and Elstead, attorneys for plaintiffs in the Hunziker case, but denies that he discussed his experiences with any entities protected by the agreement. Armstrong denies that any entities are protected by the agreement because it is unenforceable on its face and, moreover, has been rendered void by the ORG's post-settlement attacks on Armstrong and its illegal efforts at enforcement. Armstrong admits that he agreed to appear for plaintiffs as an expert on the aspects of Scientology practices and beliefs of fraud and Fair Game.

49. Armstrong admits the averments of this paragraph except that he denies that he testified at length concerning CSI or any other ORG affiliated entities and individuals protected by the agreement, because no entities or individuals are protected by the agreement due to the ORG's acts to contravene it.

50. Armstrong admits that he produced documents during his March 3, 1992 deposition but denies that there are any documents referred to in paragraph 46 of the ORG's complaint. Armstrong denies moreover that any documents he produced at the deposition were in violation of any agreement.

51. Armstrong admits that he appeared for a deposition on or about March 12, 1992 in the Hunziker case. He denies that he claimed he had been given a subpoena not by the deposing attorney. Armstrong admits that he said he had been given a deposition

subpoena by attorney Elstead and that Elstead had filled out the subpoena that morning. Armstrong admits that he refused to produce the subpoena, but lacks the information or knowledge to admit or deny the averment that it was not served on any of the parties to the case. Armstrong admits that he delivered documents to Elstead on or about March 8, 1992 and requested that he be served with a subpoena, but denies that his delivery of documents was in violation of the agreement.

52. Armstrong lacks the information or knowledge sufficient to form a belief as to what the ORG learned in April 1992 so as to that averment he cannot either admit or deny this allegation. Armstrong does deny that he reacquired any documents which he had previously returned to the ORG. And he denies that he produced any such documents either to Elstead or to opposing counsel at any time.

53. Armstrong denies each and every averment of this paragraph.

54. In answering the averments contained in this paragraph wherein CSI adopts by reference paragraphs 1 through 16, 18 through 25, 27 through 31, 33 through 35, 37, 38, 40 through 42, 44, 45 and 47 through 52 of its averments, Armstrong admits, denies and avers to the same effect and in the same manner as he admitted, denied and averred with respect to those specific paragraphs as previously set forth in this answer.

55. Armstrong denies each and every averment of this paragraph except that he did testify on or about April 7, 1992 in the Yanny case. The ORG compelled Armstrong to testify on that date in that case. The ORG filed the agreement publicly months

before this deposition, and the ORG had forced Armstrong to file the agreement in the Court of Appeal, which sua sponte, unsealed it, because of the ORG's efforts to make him a party to its subversion of the justice system. The ORG, moreover, divulged the contents of the agreement at least as early as 1989, thus giving up any right it may have had to keep it confidential.

56. Armstrong denies each and every averment of this paragraph.

57. In answering the averments contained in this paragraph wherein CSI adopts by reference paragraphs 1 through 16, 18 through 25, 27 through 31, 33 through 35, 37, 38, 40 through 42, 44, 45, 47 through 52 and 55 of its averments, Armstrong admits, denies and avers to the same effect and in the same manner as he admitted, denied and averred with respect to those specific paragraphs as previously set forth in this answer.

58. Armstrong denies each and every averment of this paragraph.

59. Armstrong admits that he gave a declaration in the Aznaran litigation on August 26, 1991, but denies that his action was a violation of any provision of the agreement.

60. Armstrong admits that his declaration attached as exhibits the two documents referred to in paragraph 58 of the ORG's complaint, but denies that said attachment was in breach of any provisions of the agreement.

61. Armstrong denies each and every averment of this paragraph.

62. Armstrong denies each and every averment of this paragraph.

63. In answering the averments contained in this paragraph wherein CSI adopts by reference paragraphs 1 through 16, 18 through 25, 27 through 31, 33 through 35, 37, 38, 40 through 42, 44, 45, 47 through 52, 54, 55 and 58 through 60 of its averments, Armstrong admits, denies and avers to the same effect and in the same manner as he admitted, denied and averred with respect to those specific paragraphs as previously set forth in this answer.

64. Armstrong lacks the information or knowledge sufficient to form a belief as to what the ORG learned in March 1992 so as to that averment he cannot either admit or deny.

65. Armstrong denies each and every averment of this paragraph.

66. Armstrong denies each and every averment of this paragraph. He denies moreover that his giving voluntary assistance to anyone not only does not harm the ORG but assists the ORG, and that such voluntary assistance to anyone cannot be proscribed by any agreement, and that any agreement which attempts to proscribe voluntary assistance is against public policy, violative of the Constitutional right to freedom of speech, association, press and religion, and is unenforceable.

67. In answering the averments contained in this paragraph wherein CSI adopts by reference paragraphs 1 through 16, 18 through 25, 27 through 31, 33 through 35, 37, 38, 40 through 42, 44, 45, 47 through 52, 54, 55, 58 through 60 and 64 and 65 of its averments, Armstrong admits, denies and avers to the same effect and in the same manner as he admitted, denied and averred with respect to those specific paragraphs as previously set forth in this answer.

68. Armstrong admits the averments of this paragraph, but denies that ORG entities CSI, CSC and RTC are protected by the agreement, because they cannot be protected legally by an illegal contract and they have acted themselves to vitiate and waive whatever protection they might at one time have had, if any.

69. Armstrong admits that in his May 27, 1992 declaration he did authenticate another declaration he had executed earlier. Armstrong lacks the information or knowledge sufficient to form a belief as to whether the transcript had at one time been ordered sealed in the earlier action between him and the ORG, so as to that averment he cannot either admit or deny. The transcript, however, has been a public document since 1982, and the tape recordings from which the transcript had originated have been found by the 9th Circuit Court of Appeals to contain evidence of criminal fraud and were released to the Criminal Investigation Division of the IRS. Armstrong denies that any of his acts are violations of any paragraphs of the agreement and denies that he is required to pay one cent to CSI.

70. Armstrong denies each and every averment of this paragraph.

71. In answering the averments contained in this paragraph wherein CSI adopts by reference paragraphs 1 through 16, 18 through 25, 27 through 31, 33 through 35, 37, 38, 40 through 42, 44, 45, 47 through 52, 54, 55, 58 through 60, 64, 65 and 68 and 69 of its averments, Armstrong admits, denies and avers to the same effect and in the same manner as he admitted, denied and averred with respect to those specific paragraphs as previously set forth in this answer.

72. Armstrong denies each and every averment of this paragraph.

73. Armstrong denies each and every averment of this paragraph.

74. Armstrong denies each and every averment of this paragraph.

75. Armstrong denies each and every averment of this paragraph.

AFFIRMATIVE DEFENSES

Allegation Common To All Affirmative Defenses

76. Plaintiff is a single component of the Scientology Organization ("ORG") that, along with all of the Scientology-related beneficiaries of the settlement are subject to a unity of control exercised by David Miscavige. Plaintiff and all other Scientology-related organizations, entities and individuals were created by David Miscavige and his attorneys as an attempt to avoid payment of taxes and civil judgments and to confuse courts and those seeking redress for the civil and criminal misconduct of Miscavige and all other Scientology-related organizations, entities and individuals. Due to the unity of personnel, commingling of assets, and commonality of business objectives, any effort by plaintiff to separate itself as being independent and separate should be disregarded.

FIRST AFFIRMATIVE DEFENSE

(Failure To State A Cause Of Action)

77. Further answering said first amended complaint, and as a first, separate and affirmative defense thereto, these answering defendants repeat, reallege and incorporate by reference herein

each and every allegation contained in paragraphs 1 through 16, 18 through 25, 27 through 31, 33 through 35, 37, 38, 40 through 42, 44, 45, 47 through 52, 54, 55, 58 through 60, 64, 65, 68, 69 and 72 through 75 herein and allege as follows:

The complaint and each cause of action contained herein fails to state a cause of action against these defendants upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

(This Court Cannot Enjoin The Practice Of A Profession)

78. Further answering said first amended complaint, and as a second, separate and affirmative defense thereto, these answering defendants allege as follows:

Any attempt by plaintiff to limit the ability to obtain gainful employment by these answering defendants, or any of them, is void and unenforceable as a matter of public policy, and constitutes an unenforceable restraint on the right of defendants, or any of them, to pursue their chosen profession.

THIRD AFFIRMATIVE DEFENSE

(Unclean Hands)

79. Further answering said first amended complaint, and as a third, separate and affirmative defense thereto, these answering defendants repeat, reallege and incorporate by reference herein each and every allegation contained in paragraphs 1 through 16, 18 through 25, 27 through 31, 33 through 35, 37, 38, 40 through 42, 44, 45, 47 through 52, 54, 55, 58 through 60, 64, 65, 68, 69, 72 through 75, 77, 78, and 80 through 88 herein and allege as follows:

Plaintiff is barred from bringing this action against these defendants and/or obtaining the equitable relief requested herein under the doctrine of unclean hands.

FOURTH AFFIRMATIVE DEFENSE

(In Pari Delicto)

80. Further answering said first amended complaint, and as a fourth, separate and affirmative defense thereto, these answering defendants repeat, reallege and incorporate by reference herein each and every allegation contained in paragraphs 1 through 16, 18 through 25, 27 through 31, 33 through 35, 37, 38, 40 through 42, 44, 45, 47 through 52, 54, 55, 58 through 60, 64, 65, 68, 69, 72 through 75, 77 through 79, and 81 through 88, herein and allege as follows:

Notwithstanding the things alleged of defendants in the complaint, which are denied in the applicable paragraphs herein, plaintiffs' and its counsels' conduct in connection with the events giving rise to this action bars plaintiff from recovery with regard to the complaint under the doctrine of in pari delicto.

FIFTH AFFIRMATIVE DEFENSE

(Illegality)

81. Further answering said first amended complaint, and as a fifth, separate and affirmative defense thereto, these answering defendants repeat, reallege and incorporate by reference herein each and every allegation contained in paragraphs 1 through 16, 18 through 25, 27 through 31, 33 through 35, 37, 38, 40 through 42, 44, 45, 47 through 52, 54, 55, 58 through 60, 64, 65, 68, 69, 72 through 75, 77 through 80, and 82 through 88, herein and allege as follows:

Plaintiff is barred from bringing this action as a result of its acts of illegality in connection with matters that give rise to this case. Particularly plaintiff and other Scientology-related entities engaged in a wholesale attempt to obstruct justice, suppress evidence in order to deny redress, due process, and equal protection of the law to its civil and criminal victims by means of obtaining settlements of litigation in actions in various state and federal courts across the United States. In each of those actions attorney Michael J. Flynn was attorney of record, or coordinating counsel for litigants adverse to Scientology. In each of those actions litigants adverse to Scientology were coerced into signing secret settlement agreements the terms of which were substantially similar to those set forth in the settlement agreement at issue herein.

Plaintiff is further barred from bringing this action because as a material part of entering the settlement agreement with defendant, plaintiff required defendant's counsel, Michael Flynn, to sign secret side agreements for indemnification for resolution of the retrial of Armstrong I were plaintiff and other Scientology-related entities successful in obtaining reversal of Judge Breckenridge's decision on appeal. In such agreement Scientology promised to limit its collections of damages to $25,001.00 and to indemnify Flynn for the payment thereof and Flynn, in turn, would indemnify Armstrong for any such judgment. The existence of these secret, side agreements were never disclosed to Armstrong by Flynn, plaintiff, or other Scientology-related entities.

Plaintiff is further barred from bringing this action because as a material part of entering said settlement agreements, it or its agents required attorney Flynn to promise never to take any anti-Scientology cases in the future. Thereafter, although Flynn has refused to provide any declarations for defendant Armstrong, he has been willing to provide documentary assistance to Scientology.

Plaintiff is further barred from bringing this action as a result of its acts of illegality in connection with the commission of acts giving rise to the action entitled Aznaran v. Church of Scientology of California, Case No C88-1786 JMI (Ex) in the United States District Court for the Central District of California (the "Aznaran case"); conduct by plaintiff, its counsel and others, including but not limited to the making of certain settlement proposals to Barry Van Sickle, Esq., for direct communication to Vicki and Richard Aznaran ("the Aznarans") knowing that Van Sickle had been disqualified from representing the Aznarans, and knowing that the Aznarans at the time were represented by Ford Greene and participating in conduct which resulted in the Aznarans (in hopes of facilitating settlement and in accordance with plaintiff's conditions) dismissing their counsel, Ford Greene, whereupon while the Aznarans were in pro per, plaintiff withdrew any offer of settlement and commenced loading up the record with voluminous, sophisticated and dispositive motions, including but not limited to two for summary judgment. In consequence thereof defendant Armstrong only provided aid and assistance to counsel whom the Aznarans subsequently employed for the purpose of preserving their rights to redress, due process and equal protection of the law.

Furthermore, other acts of illegality by plaintiff and other

Scientology-related entities have been publicly documented. Plaintiffs have engaged in acts of impropriety, as set forth above, and including what the District Court in the Aznaran case referred to in a written order, entered after most of the events in issue herein, as "outrageous litigation tactics." Also, in addition to the Flynn settlement agreements the conduct of plaintiff and other Scientology-related organizations, entities and individuals against persons "adverse to Scientology" including citizens, counsel, judges and government authorities (including but not limited to illegal surveillance, obtaining telephone company records, breaking and entering, threatening conduct, and violence) have discouraged and intimidated knowledgeable persons from disclosing their knowledge about, or otherwise coming forward against, the illegal activities of plaintiff and other Scientology-related organizations, entities and individuals, and from assisting victims thereof to obtain redress, due process and equal protection of the law.

SIXTH AFFIRMATIVE DEFENSE

(Fraud and Deceit)

82. Further answering said first amended complaint, and as a sixth, separate and affirmative defense thereto, these answering defendants repeat, reallege and incorporate by reference herein each and every allegation contained in paragraphs 1 through 16, 18 through 25, 27 through 31, 33 through 35, 37, 38, 40 through 42, 44, 45, 47 through 52, 54, 55, 58 through 60, 64, 65, 68, 69, 72 through 75, and 81 through 88, herein and allege as follows:

Plaintiff is barred from bringing this action against these defendants, and each of them, because of its fraud and deceit in representing to defendants, and each of them, that its management had changed and no longer would engage in illegal activities, that it wanted to buy peace, that it would leave defendants, and each of them alone, and that the false affidavit that it required Armstrong to sign as a condition of the settlement would be disclosed only if Armstrong attacked the ORG. Plaintiff made the foregoing representations to defendants, and each of them, with knowledge of the falsity thereof at the time said representations were made and with the intent to deceive defendants, and each of them, who actually and justifiably relied on those material misrepresentations to their injury by signing the settlement agreement. In fact, plaintiff and other Scientology-related organizations, entities and individuals never intended to cease their illegal and immoral activities, never intended to buy peace with defendants, and each of them, never intended to leave Armstrong alone, never intended not to use the false declaration only if Armstrong attacked the ORG, and never intended to abide by the terms of the settlement agreement. Rather plaintiff and other Scientology-related entities intended to use the settlement agreement as a tool for the implementation of the Fair Game Policy and Scientology's litigation tactics so as to engineer a reversal of Judge Breckenridge's decision in Armstrong I, to collusively resolve any re-trial of Armstrong I, to obtain possession of the so-called MCCS tapes which were evidence of Scientology employing attorneys for the purpose of committing future crimes and frauds, to use the false declaration in other litigation without regard to Armstrong's conduct, and to otherwise obstruct justice and suppress evidence of facts which discredited plaintiff and other

Scientology-related entities.

> Said Fair Game Policy states that any enemy of Scientology "[m]ay be deprived of property or injured by any means by any Scientologist without any discipline of the Scientologist. May be tricked, sued or lied to or destroyed."

Scientology's litigation strategy is as follows:

> "The law can be used very easily to harass, and enough harassment on somebody who is simply on the thin edge anyway, well knowing that he is not authorized, will generally be sufficient to cause his professional decease. If possible, of course, ruin him utterly."

From the outset, prior to the execution of the settlement agreement with defendant, and the execution of all other Flynn settlement agreements, it was the intent of plaintiff and other Scientology-related organizations, entities and individuals to continue to wage war on and harass Armstrong, to continue to engage in illegal activities and conduct, and to suppress evidence and obstruct justice by means of said agreements and to use said agreements as a tool of Fair Game and the litigation strategy of ruin in order to ensure that information regarding Scientology's crimes and civil misconduct would stay suppressed, and its criminal and civil victims would be denied legal redress and justice.

Moreover, Flynn advised Armstrong that he would always be available in the future to represent Armstrong if Armstrong had to litigate with the ORG in the future. Said statement was false and misleading because Flynn had signed an agreement with the ORG promising not to represent anti-ORG litigants in the future. Armstrong relied on the truth of Flynn's statement in signing the settlement agreement.

SEVENTH AFFIRMATIVE DEFENSE

(Estoppel)

83. Further answering said first amended complaint, and as a seventh, separate and affirmative defense thereto, these answering defendants repeat, reallege and incorporate by reference herein each and every allegation contained in paragraphs 1 through 16, 18 through 25, 27 through 31, 33 through 35, 37, 38, 40 through 42, 44, 45, 47 through 52, 54, 55, 58 through 60, 64, 65, 68, 69, 72 through 75, 81, 82 and 84 through 88, herein and allege as follows:

Plaintiff is equitably estopped from asserting each and all of the purported causes of action in the complaint by reason of its own acts, omissions, and conduct, or that of its agents, including, but not limited to the fact that it violated the settlement agreement in that it or its agents provided information from Armstrong I that was the subject of the settlement agreement to various persons and in various litigation including but not limited to The London Sunday Times, The Los Angeles Times, the instant litigation, the Corydon litigation, and in Church of Scientology of California v. Russell Miller and Penguin Books Limited in the High Court of Justice, Case No. 6140 in London, England, where a Scientology-related entity filed multiple affidavits attacking defendant Armstrong.

As yet a further basis for barring plaintiff on the ground of estoppel, defendant has requested plaintiff and other Scientology-related entities to release Flynn and his other former attorneys from the agreements they signed never to represent Armstrong again, and plaintiff and said entities have refused to do so.

EIGHTH AFFIRMATIVE DEFENSE

(Waiver)

84. Further answering said first amended complaint, and as an eighth, separate and affirmative defense thereto, these answering defendants repeat, reallege and incorporate by reference herein each and every allegation contained in paragraphs 1 through 16, 18 through 25, 27 through 31, 33 through 35, 37, 38, 40 through 42, 44, 45, 47 through 52, 54, 55, 58 through 60, 64, 65, 68, 69, 72 through 75, 81, 82, and 83, herein and allege as follows:

Plaintiff is barred from bringing this action against these defendants, and each of them, by reason of their own acts, omissions and conduct, or that of its agents.

NINTH AFFIRMATIVE DEFENSE

(Mistake Of Law)

85. Further answering said first amended complaint, and as a ninth, separate and affirmative defense thereto, these answering defendants repeat, reallege and incorporate by reference herein each and every allegation contained in paragraphs 1 through 16, 18 through 25, 27 through 31, 33 through 35, 37, 38, 40 through 42, 44, 45, 47 through 52, 54, 55, 58 through 60, 64, 65, 68, 69, 72 through 75, 81 through 84, and 86 through 88, herein and allege as follows:

Plaintiff is barred from bringing this action against these defendants, and each of them, because defendant Armstrong's former attorney, Michael Flynn, advised said defendant that the provisions of the settlement agreement that plaintiff is seeking to enforce herein were not in any way enforceable. Armstrong relied on such representations, but for which he would not have signed said settlement agreement.

TENTH AFFIRMATIVE DEFENSE

(Mistake Of Fact)

86. Further answering said first amended complaint, and as a tenth, separate and affirmative defense thereto, these answering defendants repeat, reallege and incorporate by reference herein each and every allegation contained in paragraphs 1 through 16, 18 through 25, 27 through 31, 33 through 35, 37, 38, 40 through 42, 44, 45, 47 through 52, 54, 55, 58 through 60, 64, 65, 68, 69, 72 through 75, 81 through 85, 87, and 88, herein and allege as follows:

Plaintiff is barred from bringing this action against these defendants, and each of them, because defendant Armstrong's former attorney, Michael Flynn, advised said defendant that the provisions of the settlement agreement that plaintiff is seeking to enforce herein were not in any way enforceable. Armstrong relied on such representations, but for which he would not have signed said settlement agreement.

ELEVENTH AFFIRMATIVE DEFENSE

(Conflict of Interest)

87. Further answering said first amended complaint, and as a tenth, separate and affirmative defense thereto, these answering defendants repeat, reallege and incorporate by reference herein each and every allegation contained in paragraphs 1 through 16, 18

through 25, 27 through 31, 33 through 35, 37, 38, 40 through 42, 44, 45, 47 through 52, 54, 55, 58 through 60, 64, 65, 68, 69, 72 through 75, 81 through 86, and 88, herein and allege as follows:

Plaintiff is barred from bringing this action against these defendants, and each of them, because defendant Armstrong's former attorney, Michael Flynn, in conjunction with settling Armstrong's case against Scientology-related entities, also settled 30 other cases, including cases of his own against Scientology-related defendants without procuring outside counsel for defendant.

TWELFTH AFFIRMATIVE DEFENSE

(Duress and Undue Influence)

88. Further answering said first amended complaint, and as a Twelfth, separate and affirmative defense thereto, these answering defendants repeat, reallege and incorporate by reference herein each and every allegation contained in paragraphs 1 through 16, 18 through 25, 27 through 31, 33 through 35, 37, 38, 40 through 42, 44, 45, 47 through 52, 54, 55, 58 through 60, 64, 65, 68, 69, 72 through 75, 81 through 87, herein and allege as follows:

Plaintiff is barred from bringing this action against these defendants, and each of them, because plaintiff and other Scientology-related organizations, entities and individuals had implemented Fair Game Policy stratagems on defendant Armstrong's attorney, Michael J. Flynn and upon other anti-Scientology litigants and would continue such conduct against all such persons unless all said anti-Scientology litigants, including Flynn, signed settlement agreements substantially similar to that signed by defendant Armstrong.

Further, in early December 1986, attorney Flynn and other anti-Scientology litigants, postured Armstrong as a deal breaker, by stating that their desires to settle would be ruined unless defendant Armstrong agreed to settle and led him to believe if he did not sign the agreement, they would not cooperate in such event by acting as Armstrong's witnesses and zealous advocate on the trial of his cross-complaint against Scientology set to commence shortly thereafter in Armstrong I.

THIRTEENTH AFFIRMATIVE DEFENSE

(Laches)

89. Further answering said first amended complaint, and as a thirteenth, separate and affirmative defense thereto, these answering defendants allege as follows:

Plaintiff is barred from bringing this action against these defendants, and each of them, on the grounds of laches.

FOURTEENTH AFFIRMATIVE DEFENSE

(Impossibility)

90. Further answering said first amended complaint, and as a fourteenth, separate and affirmative defense thereto, these answering defendants allege as follows:

Plaintiff is barred from bringing this action against these defendants, and each of them, on the grounds of impossibility.

FIFTEENTH AFFIRMATIVE DEFENSE

(Frustration of Contractual Purpose)

91. Further answering said first amended complaint, and as a fifteenth, separate and affirmative defense thereto, these answering defendants allege as follows:

Plaintiff is barred from bringing this action against these defendants, and each of them, on the grounds of frustrating defendants', and each of their, ability to perform the terms of the settlement agreement.

SIXTEENTH AFFIRMATIVE DEFENSE

(Unfair and Unreasonable Contract)

92. Further answering said first amended complaint, and as a sixteenth separate and affirmative defense thereto, these answering defendants allege as follows:

Plaintiff is barred from bringing this action against these defendants, and each of them, on the grounds that the settlement agreement is unreasonable and unfair as to defendant Armstrong.

SEVENTEENTH AFFIRMATIVE DEFENSE

(Lack of Mutuality)

93. Further answering said first amended complaint, and as a seventeenth, separate and affirmative defense thereto, these answering defendants allege as follows:

Plaintiff is barred from bringing this action against these defendants, and each of them, on the grounds that the settlement agreement, as interpreted by plaintiff, lacks in reciprocity and mutuality.

EIGHTEENTH AFFIRMATIVE DEFENSE

(Ambiguity)

94. Further answering said first amended complaint, and as a eighteenth, separate and affirmative defense thereto, these answering defendants allege as follows:

Plaintiff is barred from bringing this action against these defendants, and each of them, on the grounds that the settlement agreement in ambiguous and incapable of enforcement.

NINETEENTH AFFIRMATIVE DEFENSE

(Lack of Adequate Consideration)

95. Further answering said first amended complaint, and as a nineteenth, separate and affirmative defense thereto, these answering defendants allege as follows:

Plaintiff is barred from bringing this action against these defendants, and each of them, on the grounds that the settlement agreement is not supported by adequate consideration.

TWENTIETH AFFIRMATIVE DEFENSE

(Unconscionability)

96. Further answering said first amended complaint, and as a twentieth separate and affirmative defense thereto, these answering defendants allege as follows:

Plaintiff is barred from bringing this action against these defendants, and each of them, on the grounds that the settlement agreement is unconscionable.

TWENTY-FIRST AFFIRMATIVE DEFENSE

(Adhesion)

97. Further answering said first amended complaint, and as a twenty-first, separate and affirmative defense thereto, these answering defendants allege as follows:

Plaintiff is barred from bringing this action against these defendants, and each of them, on the grounds that the settlement agreement is a contract of adhesion.

TWENTY-SECOND AFFIRMATIVE DEFENSE

(Hardship)

98. Further answering said first amended complaint, and as a twenty-second, separate and affirmative defense thereto, these

answering defendants allege as follows:

Plaintiff is barred from bringing this action against these defendants, and each of them, on the grounds that the settlement agreement would work an unfair hardship on defendants, and each of them.

TWENTY-THIRD AFFIRMATIVE DEFENSE

(Offset)

99. Further answering said first amended complaint, and as a twenty-third, separate and affirmative defense thereto, these answering defendants allege as follows:

Any damages that plaintiff has suffered in consequence of the alleged conduct is exceeded by the damages suffered by defendants, and each of them, in consequence of the misconduct of plaintiff, and plaintiff's agents' acts of Fair Game and therefore plaintiff should take nothing.

TWENTY-FOURTH AFFIRMATIVE DEFENSE

(Liquidated Damages Act As Penalty)

100. Further answering said first amended complaint, and as a twenty-fourth, separate and affirmative defense thereto, these answering defendants allege as follows:

Plaintiff is barred from bringing this action against these defendants, and each of them, on the grounds that the settlement agreement's provision of liquidated damages is not an approximation of damage, but is intended to act and does act as a penalty.

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TWENTY-FIFTH AFFIRMATIVE DEFENSE

(First Amendment - Religion)

101. Further answering said first amended complaint, and as a twenty-fifth, separate and affirmative defense thereto, these answering defendants allege as follows:

Plaintiff is barred from bringing this action against these defendants, and each of them, on the grounds that the settlement agreement violates defendants', and each of them, right to freedom of religion guaranteed by the state and federal constitutions.

TWENTY-SIXTH AFFIRMATIVE DEFENSE

(First Amendment - Speech)

102. Further answering said first amended complaint, and as a twenty-sixth, separate and affirmative defense thereto, these answering defendants allege as follows:

Plaintiff is barred from bringing this action against these defendants, and each of them, on the grounds that the settlement agreement violates defendants', and each of them, right to freedom of speech guaranteed by the state and federal constitutions.

TWENTY-SEVENTH AFFIRMATIVE DEFENSE

(First Amendment - Press)

103. Further answering said first amended complaint, and as a twenty-seventh, separate and affirmative defense thereto, these answering defendants allege as follows:

Plaintiff is barred from bringing this action against these defendants, and each of them, on the grounds that the settlement agreement violates defendants', and each of them, right to freedom of press guaranteed by the state and federal constitutions.

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TWENTY-EIGHTH AFFIRMATIVE DEFENSE

(First Amendment - Association)

104. Further answering said first amended complaint, and as a twenty-eighth, separate and affirmative defense thereto, these answering defendants allege as follows:

Plaintiff is barred from bringing this action against these defendants, and each of them, on the grounds that the settlement agreement violates defendants', and each of them, right to freedom of association guaranteed by the state and federal constitutions.

TWENTY-NINTH AFFIRMATIVE DEFENSE

(Privacy)

105. Further answering said first amended complaint, and as a twenty-ninth, separate and affirmative defense thereto, these answering defendants allege as follows:

Plaintiff is barred from bringing this action against these defendants', and each of them, on the grounds that the settlement agreement violates defendants, and each of them, right of privacy guaranteed by the state and federal constitutions.

THIRTIETH AFFIRMATIVE DEFENSE

(Implied Covenant of Good Faith and Fair Dealing)

106. Further answering said first amended complaint, and as a thirtieth, separate and affirmative defense thereto, these answering defendants allege as follows:

Plaintiff is barred from bringing this action against these defendants, and each of them, on the grounds that the conduct of plaintiff and its agents violates the implied covenant of good faith and fair dealing.

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THIRTY-FIRST AFFIRMATIVE DEFENSE

(Justification - Defense of Another, Interests of Third Persons, and the Public)

107. Further answering said first amended complaint, and as a thirty-first, separate and affirmative defense thereto, these answering defendants repeat, reallege and incorporate by reference herein each and every allegation contained in paragraphs 1 through 16, 18 through 25, 27 through 31, 33 through 35, 37, 38, 40 through 42, 44, 45, 47 through 52, 54, 55, 58 through 60, 64, 65, 68, 69, 72 through 75, 81 through 88, herein and allege as follows:

At all relevant times, the acts of these answering defendants were privileged and justified because they were done in the defense of others, the interests of third parties, the interests of justice, and the interests of the public.

THIRTY-SECOND AFFIRMATIVE DEFENSE

(Res Judicata)

108. Further answering said first amended complaint, and as a thirty-second, separate and affirmative defense thereto, these answering defendants allege as follows:

Plaintiff's complaint, and plaintiff's claims for equitable relief and for damages, are barred by the doctrine of res judicata.

THIRTY-THIRD AFFIRMATIVE DEFENSE

(Collateral Estoppel)

109. Further answering said first amended complaint, and as a thirty-second, separate and affirmative defense thereto, these answering defendants allege as follows:

Plaintiff's complaint, and plaintiff's claims for equitable relief and for damages, are barred by the doctrine of collateral estoppel.

THIRTY-FOURTH AFFIRMATIVE DEFENSE

(Failure to Mitigate Damages)

110. Further answering said first amended complaint, and as a thirty-fourth, separate and affirmative defense thereto, these answering defendants allege as follows:

Plaintiff, and/or its agent, and/or its counsel, failed to take proper and reasonable steps to avoid or mitigate the damages alleged in the amended complaint, and to the extent of such failure to mitigate or to avoid, damages allegedly incurred by plaintiff, if any, should be reduced accordingly.

THIRTY-FIFTH AFFIRMATIVE DEFENSE

(Action Barred By Equity and Civil Code Provisions)

111. Further answering said first amended complaint, and as a thirty-fifth, separate and affirmative defense thereto, these answering defendants repeat, reallege and incorporate by reference herein each and every allegation contained in paragraphs 1 through 16, 18 through 25, 27 through 31, 33 through 35, 37, 38, 40 through 42, 44, 45, 47 through 52, 54, 55, 58 through 60, 64, 65, 68, 69, 72 through 75, 81 through 88, herein and allege as follows:

Plaintiff is barred from judicial relief by the general principles of equity and the specific provisions of Part IV of the Civil Code, including but not limited to §§ 3512, 3517, 3519, 3524, (without any admission of wrongdoing by defendants) and 3533.

THIRTY-SIXTH AFFIRMATIVE DEFENSE

(Void As Against Public Policy)

112. Further answering said first amended complaint, and as a thirty-sixth, separate and affirmative defense thereto, these answering defendants repeat, reallege and incorporate by reference herein each and every allegation contained in paragraphs 1 through 16, 18 through 25, 27 through 31, 33 through 35, 37, 38, 40 through 42, 44, 45, 47 through 52, 54, 55, 58 through 60, 64, 65, 68, 69, 72 through 75, 81 through 88, herein and allege as follows:

Plaintiff is barred from judicial relief because the settlement agreement is void as against public policy.

THIRTY-SEVENTH AFFIRMATIVE DEFENSE

(The Settlement Agreement Cannot Be Specifically Enforced)

113. Further answering said first amended complaint, and as a thirty-seventh, separate and affirmative defense thereto, these answering defendants allege as follows:

Plaintiff is barred from judicial relief because the settlement agreement cannot be specifically enforced.

THIRTY-EIGHTH AFFIRMATIVE DEFENSE

(The Settlement Agreement Cannot Be Specifically Performed)

114. Further answering said first amended complaint, and as a thirty-eighth, separate and affirmative defense thereto, these answering defendants allege as follows:

Plaintiff is barred from judicial relief because the settlement agreement cannot be specifically performed.

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THIRTY-NINTH AFFIRMATIVE DEFENSE

(Due Process)

115. Further answering said first amended complaint, and as a thirty-ninth, separate and affirmative defense thereto, these answering defendants allege as follows:

Plaintiff is barred from judicial relief because the settlement agreement deprives defendants, and each of them, other third parties and the public of due process of law as protected by the state constitution and by the Fifth and Fourteenth Amendments to the federal constitution.

FORTIETH AFFIRMATIVE DEFENSE

(Equal Protection)

116. Further answering said first amended complaint, and as a thirty-ninth, separate and affirmative defense thereto, these answering defendants allege as follows:

Plaintiff is barred from judicial relief because the settlement agreement deprives defendants, and each of them, other third parties and the public of equal protection of law as guaranteed by the state constitution and by the federal constitution.

FORTY-FIRST AFFIRMATIVE DEFENSE

(Right to Counsel)

117. Further answering said first amended complaint, and as a forty-first, separate and affirmative defense thereto, these answering defendants allege as follows:

Plaintiff is barred from judicial relief because the settlement agreement deprives defendants, and each of them, other third parties and the public of their right to counsel as protected by the state constitution and by the Sixth Amendment to the federal constitution.

FORTY-SECOND AFFIRMATIVE DEFENSE

(Public Domain)

118. Further answering said first amended complaint, and as a forty-second, separate and affirmative defense thereto, these answering defendants allege as follows:

Plaintiff is barred from judicial relief because the information that defendants, and each of them, are accused of disclosing is in the public domain.

FORTY-THIRD AFFIRMATIVE DEFENSE

(Privilege)

119. Further answering said first amended complaint, and as a forty-third, separate and affirmative defense thereto, these answering defendants allege as follows:

Plaintiff is barred from judicial relief because the acts that defendants, and each of them, are accused of having committed are privileged.

DEMAND FOR JURY TRIAL

Defendants, and each of them, hereby demand this case be tried by a jury.

WHEREFORE, Defendant Armstrong prays for relief as follows:

1. That CSI takes nothing by its complaint;
2. That Armstrong recover his costs of suit herein;
3. That Armstrong recover his attorney's fees and costs of defending the suit herein;
4. That the Court award such further relief as it may deem proper.

Respectfully submitted,

DATED: October 7, 1992

HUB LAW OFFICES

By:

FORD GREENE
Attorney for Defendant

VERIFICATION

I, the undersigned, am one of the defendants in the above entitled action. I know the contents of the foregoing Amended Answer to Amended Complaint I certify that the same is true of my own knowledge, except as to the matters which are therein stated upon my information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct according to the laws of the State of California and that this declaration was executed on October 7, 1992 at San Anselmo, California.

By:________________________
GERALD ARMSTRONG

VERIFICATION

I, the undersigned, am an officer of defendant The Gerald Armstrong Corporation in the above entitled action. I know the contents of the foregoing Amended Answer to Amended Complaint I certify that the same is true of my own knowledge, except as to the matters which are therein stated upon my information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct according to the laws of the State of California and that this declaration was executed on the October 7, 1992 at San Anselmo, California.

By: ____________________
GERALD ARMSTRONG

PROOF OF SERVICE

I am employed in the County of Marin, State of California. I am over the age of eighteen years and am not a party to the above entitled action. My business address is 711 Sir Francis Drake Boulevard, San Anselmo, California. I served the following documents: AMENDED ANSWER OF GERALD ARMSTRONG AND THE GERALD ARMSTRONG CORPORATION TO AMENDED COMPLAINT

on the following person(s) on the date set forth below, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid to be placed in the United States Mail at San Anselmo, California:

Andrew Wilson, Esquire
WILSON, RYAN & CAMPILONGO
235 Montgomery Street, Suite 450
San Francisco, California 94104

LAURIE J. BARTILSON, ESQ.
Bowles & Moxon
6255 Sunset Boulevard
Suite 2000
Los Angeles, California 90028

Graham E. Berry, Esquire
LEWIS, D'AMATO, BRISBOIS & BISGAARD
221 North Figueroa Street. Suite 1200
Los Angeles, California 90012

PAUL MORANTZ, ESQ.
P.O. Box 511
Pacific Palisades, CA 90272

[x] (By Mail) I caused such envelope with postage thereon fully prepaid to be placed in the United States Mail at San Anselmo, California.

[x] (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

DATED: October 7, 1992

SUPERIOR COURT, MARI OUNTY, CALIFORNIA PAGE: 4-A
LAW & MOTION, CIVIL CALENDAR
RULINGS

TIME: 9:00 **DATE:** 1/27/95 **DEPT:** 1
JUDGE: GARY W. THOMAS **REPORTER:** E. PASSARIS **CLERK:** J. BENASSINI
CASE NO: 157680 **TITLE OF ACTION:** CHURCH OF SCIENTOLOGY V. GERALD ARMSTRONG

THE MOTION OF PLAINTIFF FOR SUMMARY ADJUDICATION OF ISSUES IS GRANTED AS TO THE FOURTH AND SIXTH CAUSES OF ACTION AND DENIED AS TO THE ELEVENTH CAUSE OF ACTION.

AS TO ALL CAUSES OF ACTION, DEFENDANT FAILS TO RAISE A TRIABLE ISSUE AS TO WHETHER THE LIQUIDATED DAMAGES PROVISION IS INVALID. DEFENDANT RELIES ON THE LAW AS IT EXISTED PRIOR TO JULY 1, 1978. (SEE *UNITED SAV. & LOAN ASSN. V. REEDER DEV. CORP.* (1976) 57 CAL.APP.3D 282 AND EARLIER VERSIONS OF CIV. CODE, §§ 1670 AND 1671.) THE LAW NOW PRESUMES THAT LIQUIDATED DAMAGES PROVISIONS ARE "VALID UNLESS THE PARTY SEEKING TO INVALIDATE THE PROVISION ESTABLISHES THAT THE PROVISION WAS UNREASONABLE UNDER THE CIRCUMSTANCES EXISTING AT THE TIME THE CONTRACT WAS MADE." (CIV. CODE, § 1671, SUBD. (b).) DEFENDANT'S EVIDENCE IS NOT SUFFICIENT TO RAISE A TRIABLE ISSUE IN THAT REGARD. ALTHOUGH DEFENDANT STATES IN HIS DECLARATION THAT HE WAS NOT INVOLVED IN NEGOTIATING THE PROVISION (SEE D'S EX. 1, ¶12), HE GOES ON TO STATE THAT HE DISCUSSED THE PROVISION WITH TWO ATTORNEYS BEFORE SIGNING THE AGREEMENT. (*ID.*, ¶¶12-13.) THUS, HE CLEARLY KNEW OF THE PROVISION YET CHOSE TO SIGN IT. HE HAS NOT SHOWN THAT HE HAD UNEQUAL BARGAINING POWER OR THAT HE MADE ANY EFFORTS TO BARGAIN OR NEGOTIATE WITH RESPECT TO THE PROVISION. (SEE *H. S. PERLIN CO. V. MORSE SIGNAL DEVICES* (1989) 209 CAL.APP.3D 1289.) DEFENDANT NEXT STATES THAT PLAINTIFF'S ACTUAL DAMAGES ARE ZERO. (D'S EX. 1, ¶12.) HOWEVER, "THE AMOUNT OF DAMAGES ACTUALLY SUFFERED HAS NO BEARING ON THE VALIDITY OF THE LIQUIDATED DAMAGES PROVISION..." (SEE LAW REVISION COMMISSION COMMENT TO § 1671.) FINALLY, DEFENDANT POINTS TO THE FACT THAT OTHER SETTLEMENT AGREEMENTS CONTAIN A $10,000 LIQUIDATED DAMAGES PROVISION. (SEE D'S EXS. 2C AND 2D.) THIS ALONE IS NOT SUFFICIENT TO RAISE A TRIABLE ISSUE IN THAT DEFENDANT HAS NOT SHOWN THAT CIRCUMSTANCES DID NOT CHANGE BETWEEN 12/86 AND 4/87 AND THAT THOSE SETTLING PARTIES STAND IN THE SAME OR SIMILAR POSITION TO DEFENDANT (I.E., THAT THEY WERE AS HIGH UP IN THE ORGANIZATION AND COULD CAUSE AS MUCH DAMAGE BY SPEAKING OUT AGAINST PLAINTIFF OR THAT THEY HAVE/HAD ACCESS TO AS MUCH INFORMATION AS DEFENDANT).

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DEFENDANT ALSO HAS NOT RAISED A TRIABLE ISSUE REGARDING DURESS. DEFENDANT'S OWN DECLARATION SHOWS HE DID NOT EXECUTE THE AGREEMENT UNDER DURESS IN THAT IT SHOWS THAT HE CAREFULLY WEIGHED HIS OPTIONS. (SEE D'S EX. 1, ¶10.) IT CERTAINLY DOES NOT SHOW THAT HE DID SOMETHING AGAINST HIS WILL OR HAD "NO REASONABLE ALTERNATIVE TO SUCCUMBING." (SEE *IN RE MARRIAGE OF BALTINS* (1989) 212 CAL.APP.3D 66, 84.) IN ADDITION, DEFENDANT IS RELYING ON THE CONDUCT OF A THIRD PARTY (FLYNN) TO ESTABLISH DURESS, YET HE SETS FORTH NO FACT OR EVIDENCE IN HIS SEPARATE STATEMENT SHOWING THAT PLAINTIFF HAD REASON TO KNOW OF THE DURESS. (SEE *LEEPER* V. *BELTRAMI* (1959) 53 CAL.2D 195, 206.)

AS TO THE FOURTH CAUSE OF ACTION, CONTRARY TO DEFENDANT'S ARGUMENT, THE SUBJECT DECLARATION DOES MORE THAN MERELY AUTHENTICATE DOCUMENTS. (SEE P'S EX. 1(A)(11), ¶¶1-3.) THE COURT FINDS THAT THE DECLARATION CONSTITUTES A DISCLOSURE OF DEFENDANT'S "EXPERIENCES WITH" PLAINTIFF OR "KNOWLEDGE OR INFORMATION" CONCERNING PLAINTIFF AND HUBBARD. (SEE P'S EX. 1B, ¶7D.) DEFENDANT FAILS TO RAISE A TRIABLE ISSUE REGARDING OBSTRUCTION OF JUSTICE/ SUPPRESSION OF EVIDENCE. THE SETTLEMENT AGREEMENT EXPRESSLY DOES NOT PROHIBIT DEFENDANT FROM DISCLOSING INFORMATION PURSUANT TO SUBPOENA OR OTHER LEGAL PROCESS. (SEE P'S EX. 1B, ¶7H; CONTRAST WITH PEN. CODE, §§ 136.1 AND 138, *WILLIAMSON* V. *SUPERIOR COURT* (1978) 21 CAL.3D 829, *PEOPLE* V. *PIC'L* (1982) 31 CAL.3D 731.) NOR IS PLAINTIFF IN THIS CAUSE OF ACTION SEEKING TO PROHIBIT DISCLOSURE TO GOVERNMENT AGENCIES CONDUCTING INVESTIGATIONS PURSUANT TO STATUTORY OBLIGATIONS. (CONTRAST WITH *MARY R.* V. *B. & R. CORP.* (1983) 149 CAL.APP.3D 308 AND *ALLEN* V. *JORDANOS' INC.* (1975) 52 CAL.APP.3D 160.) EVEN IF A PORTION OF THE AGREEMENT COULD BE CONSTRUED TO SO PROHIBIT (SEE, E.G., ¶10), PLAINTIFF IS NOT RELYING ON THAT SECTION. NOR HAS DEFENDANT SHOWN THAT THE PROVISION IS SO SUBSTANTIAL AS TO RENDER THE ENTIRE CONTRACT ILLEGAL. (CONTRAST WITH *ALLEN, SUPRA*, 52 CAL.APP.3D AT 166.

SUPERIOR COURT, MARI COUNTY, CALIFORNIA PAGE: 4-A
LAW & MOTION, CIVIL CALENDAR
RULINGS

TIME: 9:00 DATE: 1/27/95 DEPT: 1
JUDGE: GARY W. THOMAS REPORTER: E. PASSARIS CLERK: J. BENASSINI
CASE NO: 157680 TITLE OF ACTION: CHURCH OF SCIENTOLOGY V. GERALD ARMSTRONG

AS TO THE SIXTH CAUSE OF ACTION, DEFENDANT FAILS TO RAISE A TRIABLE ISSUE REGARDING THE CNN INTERVIEW. DEFENDANT ADMITTED IN HIS DEPOSITION THAT HIS CONVERSATION WITH CNN INVOLVED KNOWLEDGE HE HAD GAINED BECAUSE OF HIS YEARS OF EXPERIENCE WITH THE ORGANIZATION (P'S EX. 1A AT 344:1-4), THUS REFUTING HIS ARGUMENTS THAT HIS STATEMENT WAS BASED ON KNOWLEDGE ACQUIRED AFTER THE SETTLEMENT AGREEMENT AND THAT HIS INTERVIEW WAS DIRECTLY RELATED TO THE INSTANT LITIGATION. IN ADDITION, PLAINTIFF SET FORTH NO FACTS OR EVIDENCE IN HIS SEPARATE STATEMENT SHOWING THAT HE COULD DISCLOSE INFORMATION ACQUIRED AFTER EXECUTION OF THE SETTLEMENT AGREEMENT OR THAT HE COULD MAKE SUCH STATEMENTS IN THE CONTEXT OF FUTURE LITIGATION. FINALLY, THERE IS NOTHING IN THE STATEMENT WHICH TIES IT TO EITHER OF THE ARGUMENTS RAISED BY DEFENDANT. DEFENDANT ALSO FAILS TO RAISE A TRIABLE ISSUE REGARDING THE AMERICAN LAWYER INTERVIEW. DEFENDANT'S CLAIM THAT HE ONLY DISCUSSED THE INSTANT LITIGATION IS REFUTED BY HIS OWN ADMISSION THAT HE DISCUSSED "THE PLIGHT OF THE ORGANIZATION [AND] WHAT IT WOULD TAKE TO END ITS LEGAL TROUBLES." (D'S EX. 1D AT 352:15-19.) DEFENDANT'S CLAIM THAT HIS DISCUSSION INVOLVED "NOTHING MORE THAN WHAT JUDGE BRECKENRIDGE STATED IN HIS DECISION IN ARMSTRONG I" IS REFUTED BY HIS ADMISSION THAT HE DID NOT RECALL DISCUSSING THE BRECKENRIDGE OPINION WITH THE REPORTER. (D'S EX. 1D AT 358:20-23.) FURTHER, DEFENDANT POINTS TO NOTHING IN JUDGE BRECKENRIDGE'S OPINION WHICH COINCIDES TO THOSE MATTERS DISCUSSED BY DEFENDANT.

AS TO THE ELEVENTH CAUSE OF ACTION, PLAINTIFF HAS NOT SHOWN THAT DEFENDANT VIOLATED PARAGRAPH 7D OF THE SETTLEMENT AGREEMENT. THE DECLARATION RELIED ON BY PLAINTIFF (P'S EX. 1(A)(8)) DOES NOT DISCLOSE DEFENDANTS "EXPERIENCES WITH THE CHURCH OF SCIENTOLOGY [OR] ANY KNOWLEDGE OR INFORMATION HE MAY HAVE CONCERNING THE CHURCH OF SCIENTOLOGY..."

SUPERIOR COURT, MARIN COUNTY, CALIFORNIA

LAW & MOTION, CIVIL CALENDAR

RULINGS

PAGE: 4-A

TIME: 9:00 **DATE:** 1/27/95 **DEPT:** 1

JUDGE: GARY W. THOMAS **REPORTER:** E. PASSARIS **CLERK:** J. BENASSINI

CASE NO: 157680 **TITLE OF ACTION:** CHURCH OF SCIENTOLOGY V. GERALD ARMSTRONG

DEFENDANT ARMSTRONG FILED A SUPPLEMENTAL DECLARATION AND EVIDENCE SIX DAYS LATE. THE COURT DID NOT PERMIT SAME. THE PLAINTIFF'S MOTION TO STRIKE THE SUPPLEMENTAL PAPERS FROM THE FILE IS GRANTED. PLAINTIFF'S REQUEST FOR SANCTIONS IS GRANTED. DEFENDANTS KNEW THE LATENESS OF THE FILING, SOME SIX DAYS. THERE WAS AMPLE TIME TO SEEK THE COURT'S PERMISSION FOR A LATE FILING. PERMISSION WAS NOT SOUGHT. SANCTIONS REQUESTED BY PLAINTIFF PURSUANT TO SECTION 437C(i) ARE GRANTED IN THE AMOUNT OF $700, AS THE COURT FINDS THIS SIX-DAYS LATE FILING TO BE IN BAD FAITH.

NOT TO BE PUBLISHED

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

CHURCH OF SCIENTOLOGY INTERNATIONAL,
Plaintiff and Respondent,
v.
GERALD ARMSTRONG,
Defendant and Appellant.

No. B069450
(Super.Ct.No. BC052395)

COURT OF APPEAL - SECOND DIST.
FILED
MAY 16 1994
JOSEPH A. LANE Clerk
Deputy Clerk

APPEAL from an order of the Superior Court of Los Angeles County, Ronald M. Sohigian, Judge. Affirmed.

Ford Greene and Paul Morantz for Defendant and Appellant.

Bowles & Moxon, Karen D. Holly, Wilson, Ryan & Campilongo, Andrew H. Wilson, Rabinowitz, Boudin, Standard, Krinsky & Lieberman, Eric M. Lieberman, and Michael Lee Hertzberg for Plaintiff and Respondent.

Defendant and appellant Gerald Armstrong (Armstrong) appeals from an order granting a preliminary injunction restraining Armstrong from voluntarily giving assistance to other persons litigating or intending to litigate claims against plaintiff and respondent Church of Scientology International (Church).

The injunction was granted to enforce a settlement agreement in prior litigation between Armstrong and Church. In the settlement, Armstrong agreed he would not voluntarily assist other persons in proceedings against Church.

Armstrong does not deny violating his agreement but asserts numerous reasons why his agreement should not be enforceable. We conclude that the narrowly-limited preliminary injunction, which did not finally adjudicate the merits of Armstrong's claims, was not an abuse of the trial court's discretion to make orders maintaining the status quo and preventing irreparable harm pending the ultimate resolution of the merits.

FACTUAL AND PROCEDURAL BACKGROUND

Armstrong was a member of Church between 1969 and 1981. He became an insider of high rank, familiar with Church practices and documents. He became disillusioned and left Church in 1981. When he left, he took many Church documents with him.

The Prior Action and Settlement

Church brought the prior action against Armstrong seeking return of the documents, injunctive relief against further dissemination of information contained in them, and imposition of a constructive trust. Mary Sue Hubbard, wife of Church founder L. Ron Hubbard, intervened asserting various torts against Armstrong. Armstrong filed a cross-complaint seeking damages for fraud, intentional infliction of emotional distress, libel, breach of contract, and tortious interference with contract.

Church's complaint and Hubbard's complaint in intervention were tried in 1984 by Judge Breckenridge. That trial led to a judgment, eventually affirmed on appeal, holding Armstrong's conversion of the documents was justified because he believed the conversion necessary to protect himself from Church's claims that he had lied about Church matters and L. Ron Hubbard. (Church of Scientology v. Armstrong (1991) 232 Cal.App.3d 1060, 1063, 1073.)

Armstrong's cross-complaint in that case was settled in December 1986 by the settlement agreement which is the subject of the injunction in the present case.

In the settlement agreement, the parties mutually released each other from all claims, except the then-pending appeal of Judge Breckenridge's decision on Church's complaint, which was expressly excluded. The settlement involved a number of persons engaged in litigation against Church, all represented by Attorney Michael Flynn. As a result of the settlement, Armstrong was paid $800,000. Armstrong's cross-complaint was dismissed with prejudice, as agreed, on December 11, 1986.

The portions of the settlement agreement most pertinent to this appeal are paragraphs 7-G, 7-H, and 10, in which Armstrong agreed not to voluntarily assist other persons intending to engage in litigation or other activities adverse to Church.[1]

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[1] "G. Plaintiff agrees that he will not voluntarily assist or cooperate with any person adverse to Scientology in any proceeding against any of the Scientology organizations, individuals, or entities listed in Paragraph 1 above. Plaintiff also agrees that he will not cooperate in any manner with any organizations aligned against Scientology. [¶] H. Plaintiff agrees not to testify or otherwise participate in any other judicial, administrative or legislative proceeding adverse to Scientology or any of the Scientology Churches, individuals or entities listed in Paragraph 1 above unless compelled to do so by lawful subpoena or other lawful process. Plaintiff shall not make himself amenable to service of any such subpoena in a manner which invalidates the intent of this provision. Unless required to do so by such subpoena, Plaintiff agrees not to discuss this litigation or his experiences with and knowledge of the Church with anyone other than members of his immediate family. As provided hereinafter in Paragraph 18(d), the contents of this Agreement may not be disclosed. [¶] . . . 10. Plaintiff agrees that he will not assist or advise anyone, including individuals, partnerships, associations, corporations, or governmental agencies contemplating any claim or engaged in litigation or involved in or contemplating any activity adverse to the interests of any entity or class of persons listed above in Paragraph 1 of this Agreement."

Paragraph 20 of the agreement authorizes its enforcement by injunction.

The Present Action

In February 1992, Church filed a complaint in the present action alleging Armstrong's violation of the settlement agreement and seeking damages and injunctive relief.

In support of its motion for a preliminary injunction, Church presented evidence that since June 1991 Armstrong had violated the agreement by working as a paralegal for attorneys representing clients engaged in litigation against Church and by voluntarily and gratuitously providing evidence for such litigation. Armstrong worked as a paralegal for Attorney Joseph Yanny, who represented Richard and Vicki Aznaran in a multimillion dollar suit against Church in federal court. Armstrong also voluntarily provided declarations for use in the Aznarans' case. Armstrong thereafter worked for Attorney Ford Greene on the Aznaran and other Church related matters.

Armstrong did not deny the charged conduct but asserted the settlement agreement was not enforceable for various reasons, primarily that it was against public policy and that he signed it under duress.

The Trial Court's Preliminary Injunction

The trial court granted a limited preliminary injunction, with exceptions which addressed Armstrong's argument that the settlement agreement violated public policy by requiring suppression of evidence in judicial proceedings.

The court found that Armstrong voluntarily entered the settlement agreement for which he received substantial compensation, and that Armstrong was unlikely to prevail on his duress claim. The court found that Armstrong could contract as part of the settlement to refrain from exercising various rights which he would otherwise have. Balancing the interim harms to the parties, the court found that to the extent of the limited acts covered by the preliminary injunction, Church would suffer irreparable harm which could not be compensated by monetary damages, and harm for which monetary damages would be difficult to calculate. (Code Civ. Proc., § 526, subds. (a)(2), (a)(4), (a)(5).)

The court's order provides, in pertinent part: "Application for preliminary injunction is granted in part, in the following respects only. [¶] Defendant Gerald Armstrong, his agents, and persons acting in concert or conspiracy with him (excluding attorneys at law who are not said defendant's agents or retained by him) are restrained and enjoined during the pendency of this suit pending further order of court from doing directly or indirectly any of the following: [¶] Voluntarily assisting any person (not a governmental organ or entity) intending to make, intending to press, intending to arbitrate, or intending to litigate a claim against the persons referred to in sec. 1 of the 'Mutual Release of All Claims and Settlement Agreement' of December, 1986 regarding such claim or regarding pressing, arbitrating, or litigating it. [¶] Voluntarily assisting any person (not a governmental organ or entity) arbitrating or litigating a claim against the persons referred to in sec. 1 of the 'Mutual Release of All Claims and Settlement Agreement' of December, 1986."

The court provided the following exceptions to address Armstrong's public policy arguments: "The court does not intend by the foregoing to prohibit defendant Armstrong from: (a) being reasonably available for the service of subpoenas on him; (b) accepting service of subpoenas on him without physical resistance, obstructive tactics, or flight; (c) testifying fully and fairly in response to properly put questions either in deposition, at trial, or in other legal or arbitration proceedings; (d) properly reporting or disclosing to authorities criminal conduct of the persons referred to in sec. 1 of the 'Mutual Release of All Claims and Settlement Agreement' of December, 1986; or (e) engaging in gainful employment rendering clerical or paralegal services not contrary to the terms and conditions of this order."

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/

DISCUSSION

The grant of a preliminary injunction does not adjudicate the ultimate rights in controversy between the parties. It merely determines that the court, balancing the relative equities of the parties, concludes that, pending a trial on the merits, the defendant should be restrained from exercising the right claimed. The purpose of the injunction is to preserve the status quo until a final determination of the merits of the action. (Continental Baking Co. v. Katz (1968) 68 Cal.2d 512, 528.)

The court considers two interrelated factors. The first is the likelihood the plaintiff will prevail at trial. The second is the interim harm the plaintiff is likely to sustain if the injunction is denied, as compared to the harm the defendant is likely to suffer if the injunction is granted. (Cohen v. Board of Supervisors (1985) 40 Cal.3d 277, 286.)

The decision to grant or deny a preliminary injunction rests in the discretion of the trial court. Accordingly, an appellate court's review on appeal from the granting of a preliminary injunction is very limited. The burden is on the appellant to make a clear showing that the trial court abused its discretion. (IT Corp. v. County of Imperial (1983) 35 Cal.3d 63, 69; Nutro Products, Inc. v. Cole Grain Co. (1992) 3

Cal.App.4th 860, 865.) Abuse of discretion means the trial court has exceeded the bounds of reason or contravened the uncontradicted evidence. (IT Corp. v. County of Imperial, supra, 35 Cal.3d at p. 69.)

Here, the trial court's memorandum decision reflects very careful consideration of the factors relevant to the granting of a preliminary injunction. The court weighed the relative harms to the parties and balanced the interests asserted by Armstrong. The court granted a limited preliminary injunction with exclusions protecting the countervailing interests asserted by Armstrong. We find no abuse of discretion. We cannot say that the trial court erred as a matter of law in weighing the hardships or in determining there is a reasonable probability Church would ultimately prevail to the limited extent reflected by the terms of the preliminary injunction.

Although Armstrong's "freedom of speech" is affected, it is clear that a party may voluntarily by contract agree to limit his freedom of speech. (See In re Steinberg (1983) 148 Cal.App.3d 14, 18-20 [filmmaker agreed to prior restraint on distribution of film]; ITT Telecom Products Corp. v. Dooley (1989) 214 Cal.App.3d 307, 319 [employee's agreement not to disclose confidential information; "it is possible to waive even First Amendment free speech rights by contract"]; Snepp v. United States (1980) 444 U.S. 507, 509, fn. 3 [book by CIA employee subject to prepublication clearance by terms of his employment contract].)

The exceptions in the trial court's injunction assured that the injunction would not serve to suppress evidence in legal proceedings. The injunction expressly did not restrain Armstrong from accepting service of subpenas, testifying fully and fairly in legal proceedings, and reporting criminal conduct to the authorities. (See Philippine Export & Foreign Loan Guarantee Corp. v. Chuidian (1990) 218 Cal.App.3d 1058, 1081-1082.) This contrasts with the stipulation in Mary R. v. B. & R. Corp. (1983) 149 Cal.App.3d 308, 315-316, cited by Armstrong, which prevented a party from disclosing misconduct to regulatory authorities.

This appeal is only from the granting of a preliminary injunction which expressly did not decide the ultimate merits. As limited by the trial court here, the preliminary injunction merely restrains, for the time being, Armstrong's voluntary intermeddling in other litigation against Church, in violation of his own agreement. We decline any extended discussion of Armstrong's shotgun-style brief, which offers more than a dozen separate contentions against enforcement. It suffices to say that Armstrong has not borne his burden on appeal to demonstrate a clear abuse of discretion.

DISPOSITION

The order granting a preliminary injunction is affirmed.

NOT TO BE PUBLISHED

VOGEL (C.S.), Acting P.J.

We concur:

HASTINGS, J.

KLEIN (Brett), J.*

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*Assigned by the Chairperson of the Judicial Council.

5159

OFFICE OF THE CLERK
COURT OF APPEA
STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT
JOSEPH A. LANE, CLERK

DIVISION: 4 DATE: 05/16/94

Bowles & Moxon
Laurie J. Bartilson
6255 Sunset Blvd
Suite 2000
Hollywood, CA. 90028

RE: Church of Scientology International
vs.
Armstrong, Gerald
2 Civil B069450
Los Angeles NO. BC052395

DEPT. 30

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES 5160

Date: August 16, 1994

Honorable	DAVID A. HOROWITZ	, Judge	S. ROBLES	, Deputy Clerk
		, Deputy Sheriff	LINDA NISHIMOTO #9147	, Reporter
2	C. AGUIRRE	, C.S.L.		, E/R Monitor

BC052395

(Parties and Counsel checked if present)

CHURCH OF SCIENTOLOGY, ETC

Counsel for Plaintiff MICHAEL LEE HERTZBERG (x)
LAURIE J. BARTILSON (x)

VS

GERALD ARMSTRONG, ET AL

Counsel for Defendant FORD GREENE (x)

NO LEGAL FILE

NATURE OF PROCEEDINGS:

MOTION BY CROSS-DEFENDANT, CHURCH OF SCIENTOLOGY INTERNATIONAL, FOR SUMMARY ADJUDICATION OF THE SECOND AND THIRD CAUSES OF ACTION OF THE CROSS-COMPLAINT;

Motion for Summary Adjudication of a Cause of Action (SACA) GRANTED. No triable issues of material facts. The 2nd and 3rd Causes of Action have no merit. CCP 437c(f)(1).

3rd Cause of Action - Breach of Contract.

Undisputed Facts: #1-9, essentially Undisputed, Cross-Defendant has accurately described the provisions of the Agreement; #10, not sufficiently disputed, Undisputed; #11, Undisputed; #12, no sufficiently disputed, Undisputed; #13, Undisputed; #14, Undisputed; #15, not sufficiently disputed, Undisputed; #16, Undisputed.

The Agreement terms are clear and unambiguous. Cross-Complainant understood the terms and signed it. The duties and obligations of the Agreement are clearly stated. "Mutuality" and "reciprocal" duties cannot be read into the unambiguous terms of the Agreement.

There are no provisions in the Agreement prohibiting the Cross-Defendant from referring to Cross-Complainant with the press or in legal pleadings or declarations. Cross-Complainant's beliefs as to what the Agreement should have said, it's validity, or what his attorney said or did to him are not relevant. The Agreement itself acknowledges that no agreements or understandings have been made among the parties aside from those set forth in the Agreement.

2nd Cause of Action - Abuse of Process.

Undisputed Facts: #17, not sufficiently disputed, Undisputed; #18, not sufficiently disputed, Undisputed; #19, Disputed; #20, Disputed, not material; #21, not sufficiently disputed, Undisputed; #22, Undisputed; #23, Disputed as to time discovered by Church counsel; #24,

Page 1 of 3 Pages

DEPT. 30

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Date: August 16, 1994

Honorable	DAVID A. HOROWITZ	, Judge , Deputy Sheriff	S. ROBLES LINDA NISHIMOTO #9147	, Deputy Clerk , Reporter
2a	C. AGUIRRE	, C.S.L.		, E/R Monitor

(Parties and Counsel checked if present)

BC052395

CHURCH OF SCIENTOLOGY, ETC

Counsel for Plaintiff: MICHAEL LEE HERTZBERG (x)
LAURIE J. BARTILSON (x)

VS

GERALD ARMSTRONG, ET AL

Counsel for Defendant: FORD GREENE (x)

NO LEGAL FILE

NATURE OF PROCEEDINGS:

disputed as to motivation, otherwise Undisputed; #25, not sufficiently disputed, Undisputed; #26, Undisputed; #27, disputed as to word "further", otherwise Undisputed; #28, Disputed, but not material; #29, Undisputed; #30, Undisputed that Marin Court granted a motion to Transfer; #31, Undisputed, except for term "irreparably harmed; #32, Undisputed; #33, Undisputed; #34, not sufficiently disputed, Undisputed; #35, Undisputed.

A One Year Statute of Limitations applies to an Abuse of Process cause of action. Code of Civil Procedure Section 340. Conduct allegedly occurring prior to July 22, 1991 is precluded by the one year Statute. Conduct alleged in paragraphs 13-24, 26 and 27, 29 and 30, 33-38, 40, 43-48 and para 57 are alleged to have occurred before 7/22/91 and are time barred.

The alleged conduct constituting "abuse of process" contained in paragraphs 49, 51, 52 and 55 does not constitute such abuse of process. That is, there are no allegations concerning the abuse of court process which constitutes a cause of action.

Communications with "some relation" to judicial proceedings have been absolutely immune from tort liability by the privilege codified as section 47(b). Albertson v. Raboff.

The alleged conduct of bringing suit, contained in paragraphs 53 and 54, is not sufficient to state a cause of action for "abuse of process. The filing or maintaining of a lawsuit cannot support a claims for abuse of process. The filing of a suit to enforce the Settlement Agreement cannot support claims for abuse of process.

The conduct alleged in para 50, ie, the filing of a complaint and the use of a declaration speaking of Cross-Complainant, does not constitute abuse of process and is privileged.

Paragraph 52 alleged conduct relating to declarations filed in a case in which the Cross-Complainant is not a party. Such conduct does not constitute abuse of process and is privileged.

DEPT. 30

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Date: August 16, 1994

Honorable	DAVID A. HOROWITZ	, Judge	S. ROBLES	, Deputy Clerk
		, Deputy Sheriff	LINDA NISHIMOTO #9147	, Reporter
2b	C. AGUIRRE	, C.S.L.		, E/R Monitor

BC052395

(Parties and Counsel checked if present)

CHURCH OF SCIENTOLOGY, ETC

Counsel for Plaintiff
MICHAEL LEE HERTZBERG (x)
LAURIE J. BARTILSON (x)

VS

GERALD ARMSTRONG, ET AL

Counsel for Defendant
FORD GREENE (x)

NO LEGAL FILE

NATURE OF PROCEEDINGS:

MOTION FOR SUMMARY ADJUDICATION OF SECOND AND THIRD CAUSES OF ACTION OF THE CROSS-COMPLAINT OF GERALD ARMSTRONG, GRANTED.

David A. Horowitz

DAVID A. HOROWITZ, JUDGE

This is the order called for by Code of Civil Procedure Section 437c(f) and Code of Civil Procedure Section 437c(g). No other written order is required.

A copy of this order is sent this date via U.S. Mail addressed as follows:

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VICKI J. AZNARAN and RICHARD N. AZNARAN

FILED 5163
3:30pm
APR 1 1988
CLERK, U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIF.
SANTA ANA OFFICE

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT, STATE OF CALIFORNIA

VICKI J. AZNARAN and RICHARD N. AZNARAN, Plaintiffs, vs. CHURCH OF SCIENTOLOGY OF CALIFORNIA, INC.; CHURCH OF SPIRITUAL TECHNOLOGY, INC.; SCIENTOLOGY MISSIONS INTERNATIONAL, INC.; RELIGIOUS TECHNOLOGY CENTER, INC.; AUTHOR SERVICES, INC.; CHURCH OF SCIENTOLOGY INTERNATIONAL, INC.; CHURCH OF SCIENTOLOGY OF LOS ANGELES, INC.; MISSION OFFICE WORLDWIDE; AUTHOR FAMILY TRUST; THE ESTATE OF L. RON HUBBARD; DAVID MISCAVIGE; and NORMAN STARKEY Defendants.	CASE NO. CV 88-1786-WDK (Ex) COMPLAINT FOR FALSE IMPRISONMENT; INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS; NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS; LOSS OF CONSORTIUM; CONSPIRACY; BREACH OF CONTRACT; RESTITUTION; FRAUD; INVASION OF PRIVACY; BREACH OF STATUTORY DUTY TO PAY MINIMUM WAGES AND OVERTIME [Cal. Lab. C.§1194] AND CONSTRUCTIVE FRAUD

COME NOW Plaintiffs VICKI J. and RICHARD N. AZNARAN, and allege as follows:

JURISDICTION AND VENUE

1. Jurisdiction for all of Plaintiffs' claims is proper under 28 USC §1332 because complete diversity exists between all Plaintiffs and all Defendants, and the amount in controversy exceeds Ten Thousand Dollars ($10,000.00). Venue is

1

proper under 28 USC §§1391(b) and 1392 because all of Plaintiffs' claims arose in this District and one or more of the Defendants resides in this District.

COMMON ALLEGATIONS

2. Plaintiffs VICKI J. AZNARAN and RICHARD N. AZNARAN (hereinafter "Plaintiffs"), are individuals domiciled in the State of Texas, County of Dallas.

3. Plaintiffs are informed and believe and thereon allege that Defendants CHURCH OF SCIENTOLOGY OF CALIFORNIA, INC., CHURCH OF SPIRITUAL TECHNOLOGY, INC., SCIENTOLOGY MISSIONS INTERNATIONAL, INC., RELIGIOUS TECHNOLOGY CENTER, INC., AUTHOR SERVICES, INC., AND CHURCH OR SCIENTOLOGY INTERNATIONAL, INC. and CHURCH OF SCIENTOLOGY OF LOS ANGELES, INC., are, and at all times herein mentioned were, California corporations authorized to do and doing business in the State of California.

4. Plaintiffs are informed and believe and thereon allege that Defendants AUTHOR FAMILY TRUST, MISSION OFFICE WORLDWIDE, and the ESTATE OF L. RON HUBBARD are entities that are residents of the State of California.

5. Plaintiffs are informed and believe and thereon allege that Defendants DAVID MISCAVIGE and NORMAN STARKEY are individuals domiciled in the State of California.

6. Corporate Defendants named in paragraph 2, above, are subject to a unity of control, and the separate alleged corporate structures were created as an attempt to avoid payment of taxes, and civil judgments. Due to the unity of personnel, commingling of assets, and commonality of business objectives, the attempt at separation of these corporations should be disregarded by the Court.

As to the Ninth Cause of Action:

1. For general and special damages according to proof at trial; and

2. For punitive damages in an amount of not less than Ten Million Dollars ($10,000,000.00); and

As to the Tenth Cause of Action:

1. For general and special damages according to proof at trial; and

2. Reasonable attorneys' fees according to proof at trial.

As to the Eleventh Cause of Action:

1. For general and special damages according to proof at trial; and

2. For punitive damages in an amount of not less than Ten Million Dollars ($10,000,000.00).

As to all Causes of Action:

1. For cost of suit incurred herein;

2. For attorneys' fees incurred; and

3. For such other and further relief and the court may deem just and proper.

Dated: April 1, 1988

CUMMINS & WHITE

By: ______________________
SHELLEY M. LIBERTO
Attorneys for Plaintiffs
VICKI J. AZNARAN and
RICHARD N. AZNARAN

5166

ORIGINAL FILED
JUL 18 1991
COUNTY CLERK

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BC033035

BC033035

SUPERIOR COURT FOR THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

RELIGIOUS TECHNOLOGY CENTER, A California Non-Profit Religious Corporation; CHURCH OF SCIENTOLOGY INTERNATIONAL, a California Non-Profit Religious Corporation; and CHURCH OF SCIENTOLOGY OF CALIFORNIA, a California Non-Profit Religious Corporation, Plaintiffs, vs. JOSEPH A. YANNY, an individual; JOSEPH A. YANNY, a professional Law Corporation and DOES 1 THROUGH 25 inclusive, Defendants.	NO. VERIFIED COMPLAINT FOR DAMAGES AND FOR TEMPORARY, PRELIMINARY AND PERMANENT INJUNCTIVE RELIEF FOR BREACH OF FIDUCIARY DUTY

Plaintiffs RELIGIOUS TECHNOLOGY CENTER, CHURCH OF SCIENTOLOGY INTERNATIONAL and CHURCH OF SCIENTOLOGY OF CALIFORNIA, for their Verified Complaint against defendants, JOSEPH A. YANNY and JOSEPH A. YANNY, A PROFESSIONAL LAW CORPORATION, allege as follows:

1. This action arises from direct, overt, and intentional breaches by defendants of the perpetual duties of loyalty and confidentiality which a member of the Bar of the State of California owes as fiduciary obligations to his former clients. Since entry of judgment in Religious Technology Center, et al. v. Joseph A. Yanny, et al., Los Angeles Superior Court Case No. C 690 211, on February 28, 1991, defendants have flagrantly violated those fiduciary duties by openly assuming representation, as counsel of record and otherwise, of clients in legal matters in a manner that directly contravenes plaintiffs' statutory rights. By this action, plaintiffs seek to enjoin their former counsel from committing further breaches of his ongoing fiduciary duties and to obtain damages for those breaches which he has committed, as is further alleged with particularity herein.

THE PARTIES

2. Plaintiff RELIGIOUS TECHNOLOGY CENTER ("RTC") is, and at all relevant times was, a not-for-profit religious corporation organized and existing under the laws of the State of California with its principal office in Los Angeles, California.

3. Plaintiff CHURCH OF SCIENTOLOGY INTERNATIONAL ("CSI") is, and at all relevant times was, a California not-for-profit

religious corporation organized and existing under the laws of the State of California with its principal office in Los Angeles, California.

4. Plaintiff CHURCH OF SCIENTOLOGY OF CALIFORNIA ("CSC") is, and at all relevant times was, a California not-for-profit religious corporation organized and existing under the laws of the State of California with its principal office in Los Angeles, California.

5. Defendant JOSEPH A. YANNY is, and at all relevant times was, an attorney licensed to practice law in the State of California. Yanny is a resident of Hermosa Beach, California.

6. Defendant JOSEPH A. YANNY, A PROFESSIONAL LAW CORPORATION is, and at all relevant times was, a professional corporation organized and existing under the laws of the State of California, with its principal office in Los Angeles, California. Defendants JOSEPH A. YANNY and JOSEPH A. YANNY, A PROFESSIONAL LAW CORPORATION, shall hereinafter be referred to collectively as "Yanny."

7. Plaintiffs are ignorant of the names and capacities of the defendants identified as DOES 1 through 25, inclusive, and thus brings suit against those defendants by those fictitious names. Plaintiffs will seek leave of Court to amend this Complaint to include those defendants by their true names upon the ascertainment of their true names and capacities, and their responsibility for the conduct alleged herein.

DEFENDANTS' HISTORY AS PLAINTIFFS' COUNSEL

8. Yanny formerly represented and appeared as counsel of record for the plaintiffs in a number of litigation matters,

including, Religious Technology Center, et al. v. Scott, et al. and Religious Technology Center, et al. v. Wollersheim, et al., (United States District Court for the Central District of California, Civil Action Nos. 85-711 and 85-7197 JMI(Bx)) (hereinafter "RTC v. Scott"); Church of Scientology International, et al. v. The Elmira Mission of the Church of Scientology, et al., (United States District Court for the Western District of New York, Civil Action No. 85-0412(T), and United States Court of Appeals for the Second Circuit No., 85-7693); Church of Scientology of California v. David Jordan, et al., Superior Court of the State of California for the County of Los Angeles, No. C 538 049; and Clay Eberle, et al. v. Church of Scientology of California, Superior Court of the State of California for the County of Los Angeles, No. NCC 16648G.

9. Yanny represented RTC, CSI and CSC, as their attorney, extensively often approaching a full-time basis, for approximately four years, between 1983 and 1987.

Indeed, Yanny has testified under oath to the extensive and in-depth character of the responsibilities he assumed as legal counsel for plaintiffs, characterizing his various duties and responsibilities as follows:

(a) "[T]o control and oversee all of the litigation that involved Scientology any place in the world ..."

(b) "I also oversaw the administrative side, what they call the transactional side of their legal business where they enter agreements with franchises or mission holders, depending on where they were located;"

(c) "I oversaw prosecution of trademark applications all over the world, United States, foreign countries. I reviewed all of those things;

(d) "I was also to, if there were any flaps, as they were called, any problems that arose, I was usually broached on what the problem was, what was expected, and asked for solutions to those types of things ..."

10. Throughout his legal representation of plaintiffs, Yanny was regularly called upon by his clients to provide advice, counsel, assistance, and judgment as a lawyer with respect to litigation, transactional, and intellectual property matters irrespective of whether he actually appeared as counsel of record in such matters. As such, and throughout his tenure as plaintiff's lawyer, Yanny was privy to and called upon to provide, and did provide legal services to plaintiffs on essentially all of plaintiffs' legal matters for nearly four years. In exchange for the legal services so rendered, as set forth in this and in the preceding paragraph of this Complaint, Yanny was compensated at an hourly rate, ultimately in a cumulative amount in excess of $2 million.

11. Upon entering into this attorney-client relationship with plaintiffs, Yanny assumed all of the fiduciary and ethical obligations that are component parts of any attorney-client relationship, including, without limitation, the duties of loyalty, diligence, fidelity, honesty, and confidentiality. Those obligations, by operation of statute, rule and common law, embrace the following fiduciary duties, which represent a selective, rather than all-inclusive list:

(a) to accept no employment adverse to plaintiffs' interests in matters substantially related to his representation of plaintiffs, either during or after the period of the parties' actual attorney-client relationship; and

(b) to keep all communications and information provided by plaintiffs or by plaintiffs' agents and employees in the cause of the representation inviolate and confidential, both during and after the period of the parties' actual attorney-client relationship.

12. During the course of Yanny's legal representation of plaintiffs, and in reliance upon the fiduciary obligations of fidelity, loyalty, and confidentiality inherent in the attorney-client relationship, plaintiffs divulged extensive strategic, confidential, and proprietary information to Yanny in the course of seeking and receiving legal advice from Yanny. Information so divulged included, but was not limited to, offensive and defensive legal strategies and approaches to various and recurring legal claims; non-public, financial information; confidential religious and scriptural information, and various other confidential and proprietary information that plaintiffs divulged to Yanny so that he could perform competently as plaintiffs' legal counsel in the many legal areas for which he had responsibility.

13. Yanny represented RTC, CSI, and CSC in several lawsuits brought by former Scientologists in which those persons sought recovery from plaintiffs or some of them upon theories of fraud and intentional infliction of emotional distress. Yanny was: (a) closely involved in the formulation and refinement of

legal strategies employed by plaintiffs to defendant against such baseless claims; and b) routinely involved in, and called upon to develop solutions for various legal issues, at periodical attorney-client conferences in which counsel representing Scientology churches discussed pending litigation, legal strategies and the strengths and potential weaknesses of the Scientology position in the various matters.

14. The attorney-client relationship between plaintiffs and Yanny was terminated in or about December, 1987, although by his failure to execute the appropriate Judicial Council forms, Yanny remained counsel of record for CSC in two cases thereafter.

15. Since on or about June 28, 1991, Yanny has appeared as counsel of record for Vicki and Richard Aznaran in an action being prosecuted by the Aznarans against RTC, CSI and others, entitled, Vicki Aznaran et al vs. Church of Scientology of California, and assigned case number C 88-1786 JMI (Ex) by the United States District Court for the Central District of California ("the Aznaran case.") During the pendency of an earlier action in this Court entitled Religious Technology Center et al. v. Joseph A. Yanny et al., case number C 690 211 ("Yanny 1"), Yanny was enjoined pendente lite from representing or providing legal counsel to the Aznarans in the Aznaran case. That provisional relief was lifted upon entry of final judgment by this Court in Yanny 1 on February 28, 1991. Like a number of substantially similar cases described in the preceding paragraph of this Complaint, the Aznaran case is one in which ex-Scientologists have sued these plaintiffs upon

theories of fraud and emotional distress. A motion to disqualify Yanny from representing the Aznarans in the Aznaran case is presently pending in that case.

16. During the time in which Yanny was plaintiff's counsel, plaintiffs were actively engaged in litigation in the matter of Church of Scientology of California v. Gerald Armstrong, Los Angeles Superior Court Case Number C 420 153, California Court of Appeal Case Number B 038 975.

Yanny's legal advice and counsel were sought and obtained by plaintiffs with respect to Gerald Armstrong, including the Armstrong case, settlement negotiations relating to it, partial settlement thereof, and the appeal therefrom. Yanny also was fully briefed upon, and his legal advice was sought and obtained by plaintiffs concerning the ongoing disputes between Armstrong and plaintiffs and the strategies to be employed by plaintiffs in dealing with those disputes. On July 15, 1991, Yanny and Armstrong informed a partner of the law firm representing CSC in this action that Yanny was now Armstrong's lawyer.

FIRST CAUSE OF ACTION

(Against all Defendants for Breach of Fiduciary Duty)

17. RTC, CSI and CSC repeat, reallege and incorporate herein by this reference each and every allegation contained in paragraphs 1 through 16, inclusive, of this complaint.

18. On April 1, 1988, Vicki Aznaran, the former president of RTC, and her husband, Richard Aznaran, a former employee of

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CSI, filed the Aznaran case, in which they seek damages from plaintiffs upon theories that include fraud and emotional distress. The Aznaran case raises many issues which are substantially related to matters concerning which Yanny represented plaintiffs, in particular, but without limitation, the counterclaims against RTC, CSI and CSC in RTC v. Scott, in which Yanny served as lead counsel for plaintiffs.

19. The Aznaran case was initially filed on the Aznarans' behalf by Barry Van Sickle, an attorney whom Yanny located for the Aznarans and who also represented Yanny in Yanny 1 in this Court. Mr. Van Sickle was disqualified by the Court in the Aznaran case because he was "an extension of Joseph Yanny's continuing involvement in [the Aznaran case]," which the Court found to be improper. The Aznarans then employed another counsel to represent them in that case until June, 1991, when they discharged him.

20. On Friday, June 28, 1991, counsel for CSI, John J. Quinn, received a telephone call from Yanny. In that call, Yanny stated that he intended to substitute into the Aznaran case as counsel for the Aznarans, and requested that Mr. Quinn agree to an extension of "45 to 60 days" to oppose a pending summary judgment motion. Mr. Quinn informed Yanny that he considered Yanny's proposed representation of the Aznarans to be outrageous and improper, and informed Yanny that he would consult with his client and with co-counsel before agreeing to anything.

21. When, on Monday, July 1, 1991, Mr. Quinn informed

Yanny that he still considered Yanny's proposed representation unethical, and that neither he nor any or these plaintiffs would agree to any such extension to permit Yanny to come into the case, Yanny informed Mr. Quinn that he had already requested and obtained the Aznaran Court's permission to represent the Aznarans on an ex parte basis, without notice to any of the opposing parties.

On July 2, 1991, Mr. Quinn checked with the clerk of the Aznaran Court and found that the Court apparently signed Yanny's substitution on or about June 28, 1991.

22. Counsel for RTC and CSI in that case promptly prepared and, on July 3, 1991, filed, a motion to disqualify Joseph Yanny from representing the Aznarans in the Aznaran case. That motion is now pending.

23. While that motion to disqualify has been pending, Yanny has filed several papers in the Aznaran case on behalf of the Aznarans, made overtures to counsel for RTC, CSI, Church of Spiritual Technology ("CST") and Author Services, Inc. ("ASI") indicating a desire to discuss settlement on behalf of the Aznarans, and otherwise conducted himself as the Aznarans' counsel both of record and in fact.

24. As an attorney with a long-term, broad ranging professional relationship with RTC, CSI, and CSC, Yanny owes a fiduciary duty to RTC, CSI, and CSC that persists beyond the termination of that relationship, in the same manner that all attorneys owe such a duty to all of their clients, present and former. That fiduciary duty creates obligations of the utmost loyalty and confidentiality and the duty not to compromise the

interest of the former client.

25. Since at least June of 1991, Yanny has breached and continues to breach his fiduciary duty to RTC, CSI, and CSC in the manner and through the conduct set forth in this Complaint in that Yanny, among other things:

(a) Counseled, advised, and otherwise provided legal services to the Aznarans, who are persons with interests adverse to plaintiffs in a matter substantially related to matters in which Yanny formerly represented plaintiffs;

(b) Undertook direct representation of the Aznarans against RTC, CSI, and other Scientology-affiliated organizations as counsel of record in the Aznaran case in direct violation of the fiduciary duty of loyalty that is perpetual and sacrosanct with respect to a lawyer's former clients; and

(c) Traded upon the attorney-client communications he received while serving as plaintiff's lawyer by counseling and advising the Aznarans and by serving as their attorney of record and in fact, in direct violation of his perpetual fiduciary duties of loyalty and confidentiality to his former clients.

26. As a direct and proximate result of Yanny's persistent and continuing breaches of his fiduciary duties, RTC, CSI, and CSC have been, are and will continue to be irreparably harmed, and unless Yanny and those acting in concert with him are temporarily, preliminarily, and permanently enjoined from continuing that unlawful conduct, further irreparable injury will be caused to RTC, CSI, and CSC.

27. RTC, CSI, and CSC have already incurred, and continue

to incur, damages as a direct and proximate result of Yanny's conduct as alleged in this Complaint. Those damages are not presently calculable and will cease only when Yanny is ordered to stop his unlawful conduct. In no event, however, are they less than $1,000,000.00. Consequently, plaintiffs seek compensatory damages according to proof.

28. Yanny's conduct is both oppressive and malicious and has been undertaken for the express purpose of injuring plaintiffs, his former clients. Accordingly, plaintiffs are entitled to punitive and exemplary damages in an amount to be determined at trial.

SECOND CAUSE OF ACTION

(Against All Defendants for Breach of Fiduciary Duty)

29. RTC, CSI and CSC repeat, reallege and incorporate herein by this reference each and every allegation contained in paragraphs 1 through 16, inclusive, of this Complaint.

30. On July 15, 1991, Yanny and Gerald Armstrong admitted to a partner in the law firm representing CSC, Kendrick Moxon, that Yanny had now undertaken legal representation of Armstrong.

31. Yanny knows that Armstrong is presently engaged in litigation adverse to plaintiffs, including the appeal of the very case in which Yanny's advice and counsel was sought and obtained by CSC and by RTC, as alleged in paragraph 16 of this Complaint.

32. As an attorney with a long-term, broad ranging professional relationship with RTC, CSI, and CSC, Yanny owes a fiduciary duty to RTC, CSI, and CSC that persists beyond the termination of that relationship, in the same manner that all

attorneys owe such a duty to all of their clients, present and former. That fiduciary duty creates obligations of the utmost loyalty and confidentiality and the duty not to compromise the interest of the former client.

33. Since at least July of 1991, Yanny has breached and continues to breach his fiduciary duty to RTC, CSI, and CSC in the manner and through the conduct set forth in this Complaint in that Yanny, among other things:

(a) Counseled, advised, and otherwise provided legal services to Armstrong, who is a person with interests adverse to plaintiffs in a matter substantially related to matters in which Yanny formerly represented plaintiffs;

(b) Undertook direct representation of Armstrong against RTC, CSI, and other Scientology-affiliated organizations in direct violation of the fiduciary duty of loyalty that is perpetual and sacrosanct with respect to a lawyer's former clients; and

(c) Traded upon the attorney-client communications he received while serving as plaintiff's lawyer by counseling and advising Armstrong in direct violation of his perpetual fiduciary duties of loyalty and confidentiality to his former clients.

34. As a direct and proximate result of Yanny's persistent and continuing breaches of his fiduciary duties, RTC, CSI, and CSC have been, are and will continue to be irreparably harmed, and unless Yanny and those acting in concert with him are temporarily, preliminarily, and permanently enjoined from

continuing that unlawful conduct, further irreparable injury will be caused to RTC, CSI, and CSC.

35. RTC, CSI, and CSC have already incurred, and continue to incur, damages as a direct and proximate result of Yanny's conduct as alleged in this Complaint. Those damages are not presently calculable and will cease only when Yanny is ordered to stop his unlawful conduct. In no event, however, are they less than $1,000,000.00. Consequently, plaintiffs seek compensatory damages according to proof.

36. Yanny's conduct is both oppressive and malicious and has been undertaken for the express purpose of injuring plaintiffs, his former clients. Accordingly, plaintiffs are entitled to punitive and exemplary damages in an amount to be determined at trial.

WHEREFORE, plaintiffs pray for judgment as follows:

ON THE FIRST CAUSE OF ACTION (REGARDING THE AZNARANS)

1. For a temporary restraining order, preliminary injunction and a permanent injunction enjoining Yanny from violating the fiduciary duties he owes to plaintiffs as a result of their earlier attorney-client relationship.

2. For compensatory damages according to proof.

3. For punitive and exemplary damages in a sum to be determined at trial.

ON THE SECOND CAUSE OF ACTION (REGARDING ARMSTRONG)

1. For a temporary restraining order, preliminary injunction and a permanent injunction enjoining Yanny from violating the fiduciary duties he owes to Plaintiffs as a result

of their earlier attorney-client relationship.

2. For compensatory damages according to proof.

3. For punitive and exemplary damages in a sum to be determined at trial.

ON ALL CAUSES OF ACTION:

1. For such other and further relief as the Court may deem just and proper.

DATED: July 18, 1991 Respectfully submitted,

By: /s/
WILLIAM T. DRESCHER

Attorney for Plaintiff
RELIGIOUS TECHNOLOGY CENTER

John J. Quinn
QUINN, KULLY AND MORROW

Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY
INTERNATIONAL

BOWLES & MOXON
Laurie J. Bartilson

Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY OF
CALIFORNIA

VERIFICATION

I, Warren McShane, am the Secretary of the Religious Technology Center, plaintiff in this action. I have read the foregoing Verified Complaint for Damages and for Temporary, Preliminary and Permanent Injunctive Relief for Breach of Fiduciary Duty and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein stated on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct. Executed this [illegible]th day of July, 1991, at Los Angeles, California.

WARREN McSHANE

VERIFICATION

I, Lynn R. Farny, am the Secretary of the Church of Scientology International, plaintiff in this action. I have read the foregoing Verified Complaint for Damages and for Temporary, Preliminary and Permanent Injunctive Relief for Breach of Fiduciary Duty and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein stated on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 18th day of July, 1991, at Los Angeles, California.

LYNN R. FARNY

VERIFICATION

I, Gail Armstrong, am the President of the Church of Scientology of California, plaintiff in this action. I have read the foregoing Verified Complaint for Damages and for Temporary, Preliminary and Permanent Injunctive Relief for Breach of Fiduciary Duty and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein stated on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 17th day of July, 1991, at Los Angeles, California.

GAIL ARMSTRONG

5184

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CHURCH OF SCIENTOLOGY INTERNATIONAL,

Plaintiff,

vs.

TIME WARNER, INC., TIME INC. MAGAZINE COMPANY, and RICHARD BEHAR,

Defendants.

92 CIV. 3024

Civil Action No.

COMPLAINT FOR LIBEL

JUDGE WOOD

Plaintiff, CHURCH OF SCIENTOLOGY INTERNATIONAL ("Church" or "plaintiff") sues defendants TIME WARNER, INC. ("Warner"), TIME INC. MAGAZINE COMPANY ("Time") and RICHARD BEHAR ("Behar") and, for its complaint, avers as follows:

JURISDICTION AND VENUE

1. This Court has diversity jurisdiction of the subject matter of this civil action pursuant to Section 1332 of Title 28 of the United States Code, in that the matter in controversy exceeds the sum or value of $50,000, exclusive of interest and costs, and is between citizens and residents of different states.

2. Venue is proper in this Court pursuant to Section 1391 of Title 28 of the United States Code in that subject matter jurisdiction is founded only on diversity of citizenship and defendants Warner and Time have their principal places of business in this judicial district and defendant Behar resides in this judicial district.

NATURE OF THE ACTION

3. This is an action for damages directly resulting from defendants' publication on April 29, 1991 of false and libelous statements of and concerning plaintiff Church in the cover story and sidebars of the May 6, 1991 issue of Time magazine ("article"). The article contained a series of false and highly defamatory statements hereinafter alleged which were published to support defendants' pre-determination that the Scientology religion is not an "acceptable" religion for the social mainstream.

4. Maliciously constructed from its inception to attempt to destroy the Scientology religion and plaintiff Church while defendants turned a profit in the process, the article is devoid of any mention of the Church's commitment to positive social reform and the accompanying contributions of its parishioners. Beyond that, defendants employed the hatchet job technique of vicious name-calling, falsely labelling a judicially recognized religion as "bogus" and "Mafia-like." This was consistent with Behar's pre-determination, admitted publicly after publication of this Time article, that he would disregard decades of Scientology's worldwide religious bona fides and that: "The point of the story was to look at Scientology as a business. We approached it as a business story, not a religion story."

5. The history of the article is a history of actual malice. Defendants' compilation of information for the article, the selection and credentials of the correspondent chosen to author the article, their systematic disregard of volumes of factual data received by them in advance of publication, the published article itself, and their post-publication refusal to correct any of the false and defamatory statements hereinafter alleged, all reflect

defendants' knowing falsity or reckless disregard for the truth of the assertions which they published.

PARTIES

6. Plaintiff Church of Scientology International is a not-for-profit religious corporation organized and existing under the laws of the State of California, with its principal offices in the State of California. Plaintiff Church is the Mother Church of the Scientology religion.

7. Defendants Warner and Time are each for-profit corporations organized and existing under the laws of the State of Delaware, each with its principal place of business in the State of New York and in this judicial district. At all relevant times, Warner, through its wholly owned subsidiary Time, managed, controlled, published and distributed a weekly magazine known as Time.

8. At all relevant times, defendant Behar was and is a citizen and resident of the State of New York and this judicial district. Over at least the past 18 months, Behar has been an employee of Time. Behar is the author of the article which is the subject of this complaint.

GENERAL ALLEGATIONS

9. Time selected Behar, a reporter with a known history of malice against the Church and the Scientology religion, to bring Time's pre-determined theme to the magazine's pages. Behar's selection to author the article was a virtual guarantee that plaintiff would be described in the most negative and derogatory terms and that no meaningful dialogue would

2. For costs of suit;

3. For punitive damages in an amount of no less than $416,000,000; and

4. For such other relief as the Court may deem just and proper.

Dated: New York, New York
April 27, 1992

Respectfully submitted,

BY: Jonathan W. Lubell
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(213) 661-4030

Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY
INTERNATIONAL

atty # 18751

5188

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

CULT AWARENESS NETWORK,

Plaintiff,

v.

CHURCH OF SCIENTOLOGY INTERNATIONAL,
BOWLES & MOXEN,
CHURCH OF SCIENTOLOGY OF ILLINOIS,
ANDREW BAGLEY,
GLEN BARTON,
GREGORY BASHAW,
CHARLES BENEDETTI,
VALON MITCHELL CROSS,
SAMUEL DEMETER,
JOE LEWIS,
MARION MELBERG,
LARRY MILLER,
DAVID SCHRAM, and
LYNN WARD,

Defendants.

No.

Call 94L 00801

Trial By Jury Demanded

JURY DEMAND

MOTION CALL C

VERIFIED COMPLAINT AT LAW

Now comes the Plaintiff, Cult Awareness Network, by and through its attorneys, John M. Beal and George N. Vurdelja, Jr., and for its complaint against the defendants Church of Scientology International, Bowles & Moxen, Church of Scientology of Illinois, Andrew Bagley, Glen Barton, Gregory Bashaw, Charles Benedetti, Valon Mitchell Cross, Samuel Demeter, Joe Lewis, Marion Melberg, Larry Miller, David Schram, and Lynn Ward alleges as follows:

PARTIES

1. Plaintiff Cult Awareness Network (hereinafter "CAN") is, and at all times relevant hereto was, a not-for-profit corporation duly organized under the laws of the State of California with its principal place of business in Barrington, Cook County, Illinois. CAN has nineteen affiliate organizations around the United States.

2. Defendant Church of Scientology International (hereinafter "Church of Scientology") is, and at all times relevant hereto was, a religious corporation organized under the laws of the State of California with its principal place of business in Los Angeles, California.

3. Defendant Bowles & Moxen is, and at all times relevant hereto was, a law firm with its principal place of business in Los Angeles, California.

4. Defendant Church of Scientology of Illinois, on information and belief, is, and at all times relevant hereto was, a not-for-profit organization under the laws of the State of Illinois, with its principal place of business in Chicago, Cook County, Illinois.

5. Defendant Andrew Bagley is, and at all times relevant hereto was, a resident of the State of Kansas and a member of the Church of Scientology.

6. Defendant Glen Barton is, and at all times relevant hereto was, a resident of the State of California and a member of the Church of Scientology.

7. Defendant Gregory Bashaw is, and at all times relevant hereto was, a resident of Cook County, State of Illinois and a member of the Church of Scientology.

8. Defendant Charles Benedetti is, and at all times relevant hereto was, a resident of Cook County, State of Illinois and a member of the Church of Scientology.

9. Defendant Valon Mitchell Cross is, and at all times relevant hereto was, a resident of San Francisco, California and a member of

the Church of Scientology.

10. Defendant Samuel Demeter is, and at all times relevant hereto was, a resident of Gresham, Oregon and a member of the Church of Scientology.

11. Defendant Joe Lewis is, and at all times relevant hereto was, a resident of Lake County, State of Illinois and a member of the Church of Scientology.

12. Defendant Marion Melberg is, and at all times relevant hereto was, a resident of Cook County, State of Illinois and a member of the Church of Scientology.

13. Defendant Larry Miller is, and at all times relevant hereto was, a resident of Cook County, State of Illinois and a member of the Church of Scientology.

14. Defendant David Schram is, and at all times relevant hereto was, a resident of Cook County, State of Illinois and a member of the Church of Scientology.

15. Defendant Lynn Ward is, and at all times relevant hereto was, a resident of Cook County, State of Illinois and a member of the Church of Scientology.

NATURE OF THE CASE

16. Defendants have brought a series of unfounded lawsuits against CAN for the purpose of interfering with CAN's regular activities, particularly that of educating its members and the public as to religious rights, freedoms and responsibilities, by making it necessary for CAN's members, officers, and employees: 1) to devote

and complaints.

145. The Church of Scientology International is not a party in any of the lawsuits or complaints set forth in paragraphs 17 through 115, above.

146. CAN has been damaged by the aforesaid actions of defendants, by incurring legal fees and costs, by paying staff to engage in litigation related activities, by being impeded in and prevented from engaging in CAN's corporate cause and purpose of public education, and otherwise.

WHEREFORE, plaintiff prays that this Court:

a. find that the defendant Church of Scientology International, aided and abetted by defendants Bowles and Moxen and Church of Scientology of Illinois, is guilty of maintenance,

b. find that defendant Church of Scientology International, aided and abetted by defendant Bowles and Moxen and Church of Scientology of Illinois, engaged in the aforesaid maintenance wilfully and wantonly,

b. enter judgment in plaintiffs' favor and against defendants,

d. award plaintiff compensatory damages in the amount of $1,000,000, plus plaintiff's costs herein,

e. award plaintiff punitive damages for defendants' willful and wanton conduct in the amount of $3,000,000, and

f. award such further relief as the Court deems just and proper.

Attorney for Plaintiff

CERTIFICATION

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this affidavit are true and correct, except as to matters therein stated to be on information and belief, and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

Dated: Janaury 17, 1994

William R. Rehling

John M. Beal
Attorney at Law
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(312) 408-2766
atty #18751

George N. Vurdelja, Jr.
~~George N.~~ Vurdelja & Associates
14 East Jackson Blvd., Suite 1320
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atty #50499

1910 - No Fee Paid
1919 - Fee Paid
JURY DEMAND

5193
CCG-67 (2-81)

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

CYNTHIA KISSER,
Plaintifff,

v.

THE CHICAGO CRUSADER, THE CHURCH OF SCIENTOLOGY OF ILLINOIS, MIDWEST CIRCULATION CORPORATION, DOROTHY LEVELL-SMITH, JOHNNY SMITH, DOROTHY GONDER, and MARY ANNE AHMAD,
Defendants.

NO. 92L08593

JURY DEMAND

MOTION CALL B.

The undersigned demands a jury trial.

Edna Selan Ep
Edna Selan Epstein

Name Edna Selan Epstein
Attorney for Plaintiff
Address 321 S. Plymouth Court
Suite 800
City Chicago, IL 60604
Telephone (312) 408-2750
Atty No. 70478

IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT, LAW DIVISION

CYNTHIA KISSER, Plaintiff, vs. THE CHICAGO CRUSADER, THE CHURCH OF SCIENTOLOGY OF ILLINOIS, MIDWEST CIRCULATION CORPORATION, DOROTHY LEVELL-SMITH, JOHNNY SMITH, DOROTHY GONDER, MARY ANNE AHMAD, Defendants	1004 JURY DEMAND 92L08593 MOTION CALL B

COMPLAINT AT LAW

NOW COMES, Plaintiff, CYNTHIA KISSER, by her attorneys, Edna Selan Epstein and John Beal, and complaining of defendants, THE CHICAGO CRUSADER, THE CHURCH OF SCIENTOLOGY OF ILLINOIS, MIDWEST CIRCULATION CORP., DOROTHY LEVELL-SMITH, JOHNNY SMITH, DOROTHY GONDER, and MARY ANN AHMAD, states as follows:

COUNT I
JULY 17, 1991 PUBLICATION
BY CHURCH OF SCIENTOLOGY OF ILLINOIS AND MARY ANNE AHMAD

1. Plaintiff, CYNTHIA KISSER ("KISSER"), is a resident of Wonder Lake, County of McHenry, Illinois. She is the Executive Director of a not for profit organization, incorporated in the State of California, called Cult Awareness Network ("CAN"), with its principal place of business located at 301 East Main Street, Suite 100 in Barrington, County of Cook, Illinois. CAN's mission is to help those who have been victimized by cults and to alert the general public to the dangers of destructive cults on individuals and their families and to the threat that such cults pose for

WHEREFORE, Plaintiff CYNTHIA KISSER seeks compensatory and punitive damages in excess of $15,000 from each of the defendants, THE CHURCH OF SCIENTOLOGY OF ILLINOIS, THE CHICAGO CRUSADER, MIDWEST CIRCULATION CORP., DOROTHY LEVELL-SMITH, JOHNNY SMITH, DOROTHY GONDER, MARY ANNE AHMAD, jointly and severally.

Respectfully submitted,

Edna Selan E

One of Cynthia Kisser's attorneys

Edna Selan Epstein
John M. Beal
THE LAW OFFICES OF EDNA SELAN EPSTEIN
321 South Plymouth Court, Suite 800
Chicago, IL 60604
(312) 408-2750

IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT, LAW DIVISION

CYNTHIA KISSER,)
)
Plaintiff,)
)
vs.)
)
THE CHICAGO CRUSADER,)
THE CHURCH OF SCIENTOLOGY OF ILLINOIS,) JURY DEMAND
MIDWEST CIRCULATION CORPORATION,)
DOROTHY LEVELL-SMITH,)
JOHNNY SMITH,)
DOROTHY GONDER,)
MARY ANNE AHMAD,)
)
Defendants)

VERIFICATION

I, Cynthia Kisser, being duly sworn and under oath, depose and state that I have read the aforegoing complaint and that the factual matters asserted therein are true and correct and that any inferences or conclusions drawn therefrom are true and correct to the best of my information and belief.

Cynthia Kisser
Cynthia Kisser

Subscribed and sworn before me
this 9th day of July, 1992

Notary Public

DAVID J. KRANICKE
May 15, 1996

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

CYNTHIA KISSER,

Plaintiff,

vs.

1 THE COALITION FOR RELIGIOUS FREEDOM,
2 RELIGIOUS FREEDOM ALERT, 3 DONALD SILLS,
4 DANIEL HOLDGRIEWE, 5 JOSEPH PAIGE,
6 ROBERT GRANT,
7 THE CHURCH OF SCIENTOLOGY INTERNATIONAL,
8 HEBER C. JENTSZCH, 9 FREEDOM, (left off freedom
THE NEW FEDERALIST,
10 KMW PUBLISHING COMPANY, INC.,
11 PMW PRINTING COMPANY, INC.,
12 PUBLICATIONS AND GENERAL MANAGEMENT, INC.,
13 NANCY SPANNAUS, 14 ALAN YUE,
15 CHRISTINA N. HUTH, 16 HOLY SPIRIT ASSOCIATION
FOR THE UNIFICATION OF WORLD CHRISTIANITY,
d/b/a, UNIFICATION CHURCH,
UNIFICATION NEWS, 17 RICHARD LEWIS,
18 SCIENTOLOGISTS TAKING ACTION FOR NON-
DISCRIMINATION, d/b/a, STAND
19 AND ANDREW BAGLEY,

Defendants.

92C 4508

JURY DEMAND

JUDGE ZAGEL
MAGISTRATE JUDGE GOTTSCHALL

FILED-ED4
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CLERK
U.S. DISTRICT COURT

COMPLAINT AT LAW

NOW COMES, Plaintiff, CYNTHIA KISSER, by her attorneys, Edna Selan Epstein and John Beal, and complains of defendants, as follows:

PARTIES

1. Plaintiff CYNTHIA KISSER ("KISSER") is a resident of Wonder Lake, McHenry County, Illinois. She is the Executive Director of a not for profit organization, incorporated in the State of California, called Cult Awareness Network ("CAN"), with its principal place of business located at 301 East Main Street,

Suite 100, Barrington, County of Cook, Illinois. CAN's mission is to help those who have been victimized by cults and to alert the general public to the dangers of destructive cults on individuals and their families and to the threat that such cults pose for political, social and personal freedoms. CAN'S mission also encompasses educating the general public in respect to religious rights, freedoms and responsibilities.

2. Defendant THE COALITION FOR RELIGIOUS FREEDOM ("CFR")is a Virginia corporation with its principal place of business located at 5400 Eisenhower Avenue, Alexandria, Virginia. Defendant CFR has been heavily funded by defendant UNIFICATION CHURCH.

3. Defendant RELIGIOUS FREEDOM ALERT ("RFA") was a monthly publication of CFR distributed nationwide including in the Northern District of Illinois.

4. Defendant DONALD SILLS ("SILLS") is the President of CFR and resides at 512 Follin Lane, SE, Vienna, Virginia, County of Fairfax.

5. Defendant DANIEL HOLDGRIEWE ("HOLDGRIEWE") is Vice President and Executive Director of CRF, and is a resident at 6255 Navajo Drive, Alexandria, Virginia.

6. Defendant JOSEPH PAIGE ("PAIGE") is the Secretary of CRF and is a resident of 509 Hilltop Drive, Raleigh, North Carolina.

7. Defendant ROBERT GRANT ("GRANT") is a Director of CRF and is a resident of 7339 Wayfarer Drive, Fairfax Staton, Virginia.

8. Defendant THE CHURCH OF SCIENTOLOGY INTERNATIONAL ("SCIENTOLOGY") is a not for profit organization incorporated in

California with its principal place of business located at 6331 Hollywood Boulevard, Suite 1200, Los Angeles, California.

9. Defendant HEBER C. JENTSZCH ("JENTSZCH") is the President of SCIENTOLOGY.

10. Defendant FREEDOM is a national magazine published by defendant SCIENTOLOGY. FREEDOM'S principal place of business is located at 6331 Hollywood Blvd. Suite 1200, Los Angeles, California.

11. Defendant THE NEW FEDERALIST, is a newspaper, with its principal place of business located in Leesburg, Virginia. THE NEW FEDERALIST is distributed nationally, including in Illinois. It is a publication of the Lyndon LaRouche Organization.

12. Defendant KMW PUBLISHING COMPANY, INC. ("KMW") is a Delaware Corporation registered as a foreign corporation in Virginia which publishes and/or owns in part or in full THE NEW FEDERALIST and is located at Indian Creek Center, # 3, Sterling, Virginia.

13. Defendant PMW PRINTING COMPANY, INC. ("PMW") is publisher and/or owner in part or in full of THE NEW FEDERALIST, and is a New York corporation registered as a foreign corporation in Virginia, whose business address is Indian Creek Center, #3, Sterling, Virginia.

14. Defendant PUBLICATIONS AND GENERAL MANAGEMENT, INC. ("PGM") is the national distributer of THE NEW FEDERALIST and is a New York corporation registered as a foreign corporation in Virginia, whose business address is 62 Sycolin Road, Leesburg,

Virginia.

15. Defendant NANCY SPANNAUS ("SPANNAUS") is the Editor-in-Chief of THE NEW FEDERALIST, and is a resident at 32 East Broadway, Lovettville, Virginia.

16. Defendant ALAN YUE ("YUE") is an associate editor of THE NEW FEDERALIST and resides at 325 Rock Spring Drive, Leesburg, Virginia.

17. Defendant CHRISTINA N. HUTH ("HUTH") is an associate editor of THE NEW FEDERALIST and resides at Rt. 2, Box 299, Leesburg, Virginia.

18. Defendant UNIFICATION CHURCH is a not for profit corporation, incorporated under the name HOLY SPIRIT ASSOCIATION FOR THE UNIFICATION OF WORLD CHRISTIANITY in the State of California with its principal place of business located at 4 West 43rd Street in New York, New York ("UNIFICATION CHURCH").

19. Defendant UNIFICATION NEWS is the official publication of defendant UNIFICATION CHURCH and has its principal place of business located at 4 West 43rd Street in New York, New York.

20. Defendant RICHARD LEWIS ("LEWIS") is the Editor of defendant UNIFICATION NEWS.

21. Defendant SCIENTOLOGISTS TAKING ACTION FOR NON-DISCRIMINATION ("STAND") is an unincorporated organization whose headquarters are located at 3619 Broadway, Kansas City, Missouri.

22. Defendant ANDREW BAGLEY ("BAGLEY") is National Director of STAND and resides at 3619 Broadway, Kansas City, Missouri.

JURISDICTION

23. This Court has jurisdiction over the matter asserted by virtue of the diversity of citizenship between plaintiff and each defendant and because the matters in controversy exceeds $50,000 in terms of damages sought. 28 U.S.C. § 1332.

VENUE

24. Venue properly lies in the Northern District of Illinois because publication of the defamatory statements complained of were distributed and published by defendants, along with other places, in the Northern District of Illinois, where plaintiff resides and works.

NATURE OF THE ACTION

25. Plaintiff brings this action in various counts against the respective defendants alleging that each has made defamatory statements about her and that they have conspired together to give such statements the widest possible currency. Defendants have acted to spread the defamatory statements based on the proposition that any lie repeated often enough will be taken as truth by some individuals and that resources expended in combating such lies will detract from and undercut the primary mission of plaintiff as Executive Director of CAN.

29. A balance of harms warrants enjoining all defendants from continuing to publish libels against KISSER either by direct falsehoods or by means of defamatory innuendos which seek to associate KISSER with sexual perverts and criminals of various types.

30. Plaintiff seeks such injunctive relief after a finding on the merits has shown the warrant thereof and the need therefor.

WHEREFORE, Plaintiff respectfully requests that after a full evidentiary hearing by the Court, should such prove necessary before a final adjudication on the merits or after a full trial by jury on the underlying claims, this Court grant equitable relief against future and continuing libels against her by each of these defendants by enjoining each and every one of them from making any further libelous statements about and in respect to her.

Respectfully submitted,

Edna Selan Epstein

One of Cynthia Kisser's attorneys

Edna Selan Epstein
John M. Beal
THE LAW OFFICES OF EDNA SELAN EPSTEIN
321 South Plymouth Court, Suite 800
Chicago, IL 60604
(312) 408-2750

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

CYNTHIA KISSER,

Plaintiff,

vs.

THE COALITION FOR RELIGIOUS FREEDOM,
RELIGIOUS FREEDOM ALERT, DONALD SILLS,
DANIEL HOLDGRIEWE, JOSEPH PAIGE,
ROBERT GRANT, THE CHURCH OF SCIENTOLOGY INTL,
HEBER C. JENTSZCH, FREEDOM,
THE NEW FEDERALIST, KMW PUBLISHING COMPANY, INC.,
PMW PRINTING COMPANY, INC.,
PUBLICATIONS AND GENERAL MANAGEMENT, INC.,
NANCY SPANNAUS, ALAN YUE,
CHRISTINA N. HUTH, HOLY SPIRIT ASSOCIATION
FOR THE UNIFICATION OF WORLD CHRISTIANITY,
d/b/a UNIFICATION CHURCH,
UNIFICATION NEWS, RICHARD LEWIS,
SCIENTOLOGISTS TAKING ACTION FOR NON-
DISCRIMINATION, d/b/a, STAND and ANDREW BAGLEY,

Defendants.

JURY DEMAND

VERIFICATION

I, Cynthia Kisser, being duly sworn and under oath, depose and state that I have read the aforegoing complaint and that the factual matters asserted therein are true and correct and that any inferences or conclusions drawn therefrom are true and correct to the best of my information and belief.

Cynthia Kisser
Cynthia Kisser

Subscribed and sworn before me
this 9th day of July, 1992

Notary Public

"OFFICIAL SEAL"
DAVID J. KRANICKE
Notary Public, State of Illinois
My Commission Expires May 15, 1996

1

GREENE, O'REILLY, AGNEW & BROILLET
A LAW CORPORATION
1122 WILSHIRE BOULEVARD
LOS ANGELES, CALIFORNIA 90017
(213) 482-1122
(213) 482-1350

Attorneys for PLAINTIFF
LARRY WOLLERSHEIM

(SPACE BELOW FOR FILING STAMP ONLY)

5204

FILED
JUL 28 1980
John J. Corcoran, County Clerk
Carol A. Burge
BY CAROL A. BURGE, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

LARRY WOLLERSHEIM, Plaintiff, -vs- CHURCH OF SCIENTOLOGY OF CALIFORNIA, A Corporation, CHURCH OF SCIENTOLOGY OF FLORIDA, A Corporation; L. RON HUBBARD, An Individual; CHURCH OF SCIENTOLOGY, A Corporation; DOES 1 through 200, inclusive, Defendants.	CASE NO. C332027 COMPLAINT FOR DAMAGES (FRAUD, INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS, NEGLIGENT INFLICTION OF EMOTIONAL SHOCK)

COMES NOW Plaintiff, LARRY WOLLERSHEIM, and for causes of action against Defendants, and each of them, Complains and alleges as follows:

GENERAL ALLEGATIONS

1. That the true names and/or capacities, whether individual, corporate, associate or otherwise of Defendants,

DOES 1 through 200, inclusive, and each of them, are unknown to Plaintiff who, therefore, sues said Defendants by such fictitious names. Plaintiff is informed and believes and upon such information and belief alleges that each of the Defendants fictitiously named herein as a DOE is legally responsible, intentionally, negligently and/or in some other actionable manner, for the events and happenings hereinafter referred to and proximately thereby caused the injuries and damages to Plaintiff as hereinafter alleged. The Plaintiff will seek leave of Court to amend this Complaint to amend this Complaint to insert the true names and/or capacities of such fictitiously named Defendants when the same have been ascertained.

2. Plaintiff is informed and believes and thereupon alleges that at all times mentioned herein and material hereto,m Defendants, and each of them, were the agents, servants, employees and/or joint venturers of their co-defendants and were, as such, acting within the course, scope and authority of said agency, employment and/or venture and that each and every Defendants, as aforesaid, when acting as a principal, was negligent in the selection and hiring of each and every other Defendant as an agent, employee and/or joint venturer.

3. That at all times mentioned herein and material hereto, Plaintiff, LARRY WOLLERSHEIM, was a resident of the County of Los Angeles, State of California.

// //

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A LA RPORATION
1122 W E BOULEVARD
LOS ANGELES, CALIFORNIA 90017
(213) 482-1122
(213) 482-1353

at this time and when said amounts are ascertained, the Plaintiff will ask leave of court to amend this Complaint and allege said amounts, or will state said sum or sums according to proof at the time of trial.

WHEREFORE, Plaintiff prays judgment from Defendants, and each of them, as follows:

1. General Damages in an amount according to proof, pursuant to C.C.P. Section 425.10;

2. Medical and incidental expenses, according to proof;

3. Lost earnings, loss of future earnings, loss of earning capacity, according to proof;

4. General damages for mental, emotional and physical suffering, shock and distress in an amount which will be stated according to proof;

5. For punitive and exemplary damages in the amount of Twenty Five Million Dollars ($25,000,000.00);

6. For Plaintiff's costs of suit incurred herein; and

7. For such other and further relief as the Court deems just and proper.

DATED: July 25, 1980

GREENE, O'REILLY, AGNEW & BROILLET

By Charles B. O'Reilly
CHARLES B. O'REILLY
KENNETH EARL CLARK
Attorneys for Plaintiff,
Larry Wollersheim.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

LARRY WOLLERSHEIM,
Plaintiff,

-vs-

CHURCH OF SCIENTOLOGY, etc., et al.,
Defendants.

CASE NUMBER

C332027

CERTIFICATE OF ASSIGNMENT

A civil action or proceeding presented for filing in a district other than the Central District must be accompanied by this certificate. An action for personal injury, wrongful death or damage to property presented for filing in the Central District must be accompanied by this certificate. If the ground is the residence of a party, his name and residence shall be stated.

☒ The undersigned declares that the above entitled matter is filed for proceedings in the CENTRAL District of the Superior Court under Rule 2, Section 3 of this court for the checked reason:

		Nature of Action	Ground
☐	1	Adoption	Petitioner resides within the district
☐	2	Conservator	Petitioner or conservatee resides within the district
☐	3	Contract	Performance in the district is expressly provided for
☐	4	Equity	The cause of action arose within the district
☐	5	Eminent Domain	The property is located within the district
☐	6	Family Law	Plaintiff, defendant, petitioner or respondent resides within the district
☐	7	Forceable Entry	The property is located within the district
☐	8	Guardianship	Petitioner or ward resides within the district
☐	9	Habeas Corpus	No action pending, the person is held within the district
☐	10	Mandate*	The defendant functions wholly within the district
☐	11	Name Change	The petitioner resides within the district
☐	12	Personal Property	The property is located within the district
☐	13	Probate	Decedent resided or petitioner resides within the district
☐	14	Prohibition*	The defendant functions wholly within the district
☐	15	Review*	The defendant functions wholly within the district
☐	16	Small Claims Appeal	The lower court is located within the district
☐	17	Title to Real Property	The property is located within the district
☒	18	TORT	The cause of action arose within the district
☐	19	TORT*	The cause of action arose outside of this county
☐	20	Transferred Action	The lower court is located within the district
☐	21	Unlawful Detainer	The property is located within the district

The residence of the petitioner, respondent, deceased, conservatee, ward, plaintiff, or defendant .... (Name)

is .... (Address)

I declare under penalty of perjury that the foregoing is true and correct and this declaration was executed on July 25, 1980 at Los Angeles, California.

Kenneth Earl Clark

(Signature of Attorney)
KENNETH EARL CLARK

*Prerogative writs concerning a court of inferior jurisdiction and Tort Actions arising outside of the county may be filed in Central District only

CERTIFICATE OF ASSIGNMENT

Rule 2 LASCR

Kendrick L. Moxon
BOWLES & MOXON
6255 Sunset Blvd.
Suite 2000
Hollywood, CA 90028-7421
(213) 661-4030

Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY OF CALIFORNIA

5208

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

CHURCH OF SCIENTOLOGY OF CALIFORNIA, a California non-profit religious corporation, Plaintiff, vs. LARRY WOLLERSHEIM, Defendant.	CASE NO. COMPLAINT TO SET ASIDE JUDGMENT AND FOR EQUITABLE RELIEF

Plaintiff Church of Scientology of California ("the Church") alleges as follows:

GENERAL ALLEGATIONS

1. This is an action for equitable relief from a judgment rendered in this Court on July 22, 1986, in an action entitled Larry Wollersheim v. Church of Scientology of California, Case No. C 332 027 (the "Prior Action"). A true and correct copy of that judgment is annexed as Exhibit A. The Prior Action resulted in the entry of a judgment against the Church for, inter alia, punitive damages which exceeded the Church's proven net worth by more than $14,000,000. Evidence newly discovered, as set forth in detail in paragraphs 9 - 20, infra, reveals that the verdict

was the result of passion and prejudice not merely of the jury, but of the sitting judge; that the judge was biased against the Church during the trial of the Prior Action because of beliefs that had no basis in fact, and came solely from extrajudicial sources; that the judge's prejudice became the source of the jurors' prejudice and bias; and that those prejudices were deliberately concealed from the Church and its counsel both during the trial proceedings and during post-trial proceedings in which the Church's attempts to inquire into the bias of judge and jury were uniformly thwarted. Because the trial court, due to his bias and prejudice, lacked jurisdiction over the trial of the Prior Action, the Church seeks equitable relief from the unjust judgment.

2. The Church is, and at all times herein mentioned was, a not for profit religious corporation organized and existing under the laws of the State of California with its principal offices at 1404 North Catalina, Los Angeles, California 90027.

3. Defendant Larry Wollersheim is an individual whose current residence is not known to the Church, but whose current mail drop, upon information and belief, is P.O. Box 10910, Aspen, Colorado 81612.

4. Jurisdiction and venue are proper in this Court because this is an action for equitable relief from a judgment entered in the Prior Action. That judgment was modified by the California Court of Appeal in an opinion reported at 212 Cal.App.3d 872, 260 Cal.Rptr. 331 (1989). The Court of Appeal's opinion was then vacated by the United States Supreme Court in a proceeding reported at 111 S.Ct. 1298 (1991). Judgment was again entered by

the California Court of Appeal on March 20, 1992, [Exhibit B] and modified by that Court on April 20, 1992 [Exhibit C]. On July 23, 1992, the California Supreme Court granted the Church's petition for review. The case is being held pending decision by the Supreme Court of the United States in TXO Production Corp. v. Alliance Resources Corp., et al., No. 92-479 and pending a determination by the Supreme Court of California in Gourley v. State Farm Mutual Automobile Ins. Co. (SO14133) and MGW, Inc. v. Fredericks Development Corp. et al. (SO15966).

FIRST CAUSE OF ACTION

FOR EQUITABLE RELIEF FROM JUDGMENT

(Against Defendant Wollersheim)

5. This action seeks an order from the Court declaring the judgment in the Prior Action null and void in its entirety. The judgment rendered in the Prior Action was, and at all times has been, and now is void because the trial court lacked jurisdiction to render judgment in the Prior Action.

6. The Church is informed and believes that the judge in the Prior Action, the Honorable Ronald Swearinger, was disqualified under California case law and applicable provisions of the California Code of Civil Procedure, including C.C.P. §§ 170.1 and 170.6. Newly-discovered evidence, as hereinafter alleged, discloses that the judge entertained -- but failed to disclose that he entertained -- unfavorable beliefs and a biased condition of mind toward the Church during the trial of the Prior Action. The unfavorable beliefs had no basis in fact or evidence, nor did they derive from anything other than extrajudicial sources. Because of these unfounded beliefs and

bias, Judge Swearinger was disqualified throughout the pendency of the Prior Action, and lacked jurisdiction to preside over the trial, or to enter judgment.

7. During post-trial proceedings following the Prior Action, interviews with jurors conducted by the Church's attorneys revealed that the jurors "believed" that they were being followed by members of the Church of Scientology. One of the jurors, Terri Reuter, stated that the jury had been told by "unnamed court personnel," whom she refused to identify, that during the trial Judge Swearinger's tires had been slashed, and that his dog had been found dead. She said that the jurors attributed these actions to unknown and unnamed members of the Church of Scientology. None of the jurors, however, would volunteer further information about these events. No members of any Church of Scientology had, in fact, followed the jurors, slashed any tires, or done anything at all to Judge Swearinger's dog. The Church was aware, however, that Wollersheim's counsel, Charles O'Reilly, had hired multiple private investigators during the course of the Prior Action, and Church counsel suspected that one or more of these investigators were responsible for "dirty tricks" designed to implicate the Church, and prejudice the jury.

8. After the juror interviews, Church attorneys sought to investigate the bias that obviously pervaded the jury and infected its verdict, seeking the source of these unfounded accusations, which had never been made in the open courtroom during the trial itself. Church counsel raised with the Court the jury bias which had been learned of in post-trial interviews, including the statements made by Reuter, and made a request to

Judge Swearinger to be allowed discovery into the jurors in order to establish the extent and source of the taint. Wollersheim's counsel vigorously opposed such an investigation and Judge Swearinger refused to allow the discovery. The source of the jury's bias thus remained a mystery for five years.

9. Finally, in an interview with William W. Horne, a reporter employed by the American Lawyer magazine which took place in 1992, Judge Swearinger revealed that he maintained a condition of mind of unfavorable bias against the Church during the trial of the Prior Action. According to Horne, Judge Swearinger stated that his dog had drowned in the family swimming pool during the trial of the Prior Action, and that the judge believed that he had been followed when in his car throughout the trial. The judge informed Horne that, while he was in possession of no evidence to corroborate the suspicions he harbored, he nonetheless felt that members of the Church of Scientology were responsible for such actions.

10. The judge's "suspicions" had no basis in fact. No member of any Church of Scientology did anything to harass or follow Judge Swearinger during the Prior Action, nor did any member of any Church of Scientology have anything to do with the death of Judge Swearinger's dog.

11. During an interview with the Church's attorneys Eric M. Lieberman and Jonathan Lubell on March 19, 1992, Horne revealed Judge Swearinger's statements as set forth in paragraph 9, supra. For the first time, the Church and its attorneys suspected that the source of infection of the jury was the judge himself.

12. Horne provided further details concerning Judge

Swearinger's statements in an interview with the Church's attorney, Michael L. Hertzberg, in New York City on March 23, 1992. Horne stated that Judge Swearinger related to Horne that the judge's veterinarian had told the judge that the dog was old and had died of a heart attack, yet Judge Swearinger still felt that the dog had fallen or been pushed into the pool. Horne further stated that the judge had said that he felt the Church somehow had responsibility for the dog's death.

13. Horne also told Hertzberg that Judge Swearinger claimed he had been followed "a few times" in his car during the trial of the Prior Action and had assumed that the Church of Scientology was responsible for these actions.

14. In the July/August 1992 issue of American Lawyer, Horne published an article which quotes Judge Swearinger as saying:

> "I was followed [at various times] throughout the trial . . . and during motions for a new trial . . . . All kinds of things were done to intimidate me, and there were a number of unusual occurrences during that trial. My car tires were slashed. My collie drowned in my pool. But there was nothing overtly threatening, and I didn't pay any attention to the funny stuff."

15. During the pendency of the Prior Action, Judge Swearinger never mentioned these incidents to counsel for the Church nor revealed (to them) his concern or belief that Church personnel were responsible for acts of harassment against him. By withholding any mention of his concern, Judge Swearinger denied the Church the opportunity to remove his concerns or to

challenge him for cause.

16. The Church is informed, and therefore believes, that although Judge Swearinger did not divulge his state of mind to Church counsel, he did describe these incidents to court personnel during the trial of the Prior Action, and that court personnel, in turn, revealed them to the jurors, resulting in a jury as biased as the judge.

17. In April, 1992, during a chambers conference in a case unrelated to the Prior Action and to which neither Wollersheim nor the Church was a party, Judge Swearinger discussed the trial of the Prior Action with counsel in that case, one of whom was counsel for Wollersheim in the most recent Court of Appeal proceeding in the Prior Action. The Church is informed, and therefore believes, that Judge Swearinger stated to Wollersheim's appellate lawyer that he believed the award of damages in the Prior Action was excessive but that he had deliberately chosen to allow the excessive verdict to stand because of his displeasure with the Church and its trial counsel.

18. During the chambers conference, Judge Swearinger asked Wollersheim's appellate counsel to see if he could arrange with the Church's counsel for a certain official of the Church of Scientology to call Judge Swearinger. The judge also showed bias against the Church and its counsel through derogatory references to the Church's counsel. The judge referred to the Church's counsel, Earl Cooley, as Earl "Fooley," because Mr. Cooley had alleged that there had been tampering with the jury.

19. Wollersheim's appellate counsel relayed Judge Swearinger's remarks to one of the Church's counsel who, after

client consultation, called Judge Swearinger on behalf of the Church of Scientology official with whom Judge Swearinger had asked to speak. In that telephone conversation with Church counsel, Judge Swearinger repeated the substance of his discourse with Wollersheim's appellate counsel concerning his state of mind with respect to the jury verdict in the Prior Action. The judge stated that at the time of the post-trial motion he probably would have done what the Court of Appeal eventually did -- _i.e._, reduce the jury's damage award by 27.5 million dollars. He explained, however, that he did not do so because such an action would have given credibility to Mr. "Fooley's" charge that the jury was tainted. Now, five years later, it has finally been revealed that not only was Mr. Cooley correct about the jury taint, but that it was Judge Swearinger, himself, who was the source of the jury's taint and corruption.

20. Judge Swearinger's comments, made long after the trial of the Prior Action, revealed that he possessed, throughout the Prior Action, unfounded suspicions and unfavorable beliefs regarding the Church, none of which were disclosed during the pendency of the Prior Action. Moreover, those comments make clear that the judge improperly permitted entry of a judgment he knew to be outrageous, and the result of bias and prejudice, in order to conceal that he, himself, was the source of the jury's bias and prejudice.

21. Judge Swearinger's concealment, during the Prior Action, of his suspicions, bias and prejudice denied the Church any opportunity to address and alleviate Judge Swearinger's concerns, or to challenge him for cause, thus resulting in an

unfair trial and an unjust verdict. Further, Judge Swearinger's refusal during the post-trial stages of the Prior Action to permit discovery into the source of the jurors' bias and prejudice prevented the Church from discovering, other than by chance, that the judge was also the source of jury bias and taint.

22. The Church was recently apprised of all of the foregoing information regarding Judge Swearinger's state of mind during the Prior Action. Prior to this time such information was not available to the Church despite the Church's diligence. The Church is free from contributory fault in the entry of the previous judgment.

23. The Church will suffer irreparable harm and irreplaceable loss if the final judgment entered in the Prior Action is permitted to stand, and the Church has no adequate remedy at law.

WHEREFORE, the Church prays for judgment as follows:

1. That the judgment rendered against the Church in the Prior Action be declared null and void and of no further effect; and

2. For such other and further relief as the Court may deem just and proper.

DATED: February 16, 1993

Respectfully submitted,

BOWLES & MOXON

By: ______________________
Kendrick L. Moxon

Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY OF
CALIFORNIA

VERIFICATION

I, James Morrow, am the President of the Church of Scientology California, the plaintiff in this action. I have read the foregoing complaint and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein alleged on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 16th day of February, 1993, at Los Angeles, California.

JAMES MORROW

Amended in red pursuant to the Order of the Honourable Mr. Justice Kennedy dated the 13th day of April 1984

COURT FEES ONLY

5218

1984 -S- No. 1675

Writ indorsed with Statement of Claim [Unliquidated Demand] (O.6, r. 1)

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH Division

[Group]

Jurisdiction. *of the*

~~District Registry~~]

13 APR 1984 CENTRAL OFFICE

22 MAR 1984 CENTRAL OFFICE ACTION DEPARTMENT

Between

THE CHURCH OF SCIENTOLOGY ADVANCED ORGANIZATION SAINT HILL EUROPE AND AFRICA (body corporate) **Plaintiffs**

AND

(1) ROBIN SCOTT
(2) RON LAWLEY
(3) MORAG BELLMAINE
(4) STEVEN BISBEY

Defendants

12.-

(1) Insert name.

(2) Insert address.

To the First Defendant(1) ROBIN SCOTT of Candacraig House, Strathdon
Aberdeenshire AB3 8XT, Scotland
~~of~~(2) Second Defendant, RON LAWLEY of 36 St. James Road,
East Grinstead, West Sussex.
Third Defendant, MORAG BELLMAINE of 52 West Hill,
East Grinstead, West Sussex.
To the Fourth Defendant, STEVEN BISBEY
of 52 West Hill East Grinstead, West Sussex

This Writ of Summons has been issued against you by the above-named Plaintiff in respect of the claim set out overleaf.

Within 14 days after the service of the Writ on you, counting the day of service, you must either satisfy the claim or return to the Court Office mentioned below the accompanying **Acknowledgment of Service** stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the Acknowledgment within the time stated, or if you return the Acknowledgment without stating therein an intention to contest the proceedings the Plaintiff may proceed with the action and judgment may be entered against you forthwith without further notice.

(3) Complete and delete as necessary.

Issued from the (3) [Central Office] [~~District Registry~~]
of the High Court this 22nd day of March 1984.

NOTE:—This Writ may not be served later than 12 calendar months beginning with that date unless renewed by order of the Court.

IMPORTANT

Directions for Acknowledgment of Service are given with the accompanying form.

~~Statement of Claim~~

CENTRAL OFFICE R.C.J.

The Plaintiffs claim is for

(1) An injunction to restrain the Defendants and each of them by themselves their respective servants agents or otherwise from doing or authorising the doing of the following acts or any of them that is to say:-

(a) dealing in any way with any documents (or copies thereof) obtained from the Plaintiffs by the Defendants or any of them in or about December 1983 and relating to the teaching or principles of Scientology;

(b) making any copy or copies of the said documents or any of them;

(c) publishing, divulging to any person or making any use whatsoever of any of the said documents, any copy or copies thereof or any of the contents thereof.

(2) An Order that the Defendants and each of them do forthwith deliver up to the Plaintiffs' Solicitors all or any documents obtained by any of the Defendants from the Plaintiffs in or about December 1983 and relating to the teaching or principles of Scientology and any copy or copies thereof in the possession power or control of the Defendants or any of them.

(3) Damages for wrongful interference with the Plaintiffs' goods, namely the said documents.

(4) Damages for misuse of confidential documents and information, alternatively an account of profits.

(5) Interest pursuant to Section 35(A) of the Supreme Court Act, 1981 to be assessed.

OFFICE COPY

R.M. ENGLEHART

(Signed)

(1) If this Writ was issued out of a District Registry, this indorsement as to place where the cause of action arose should be completed.

(2) Delete as necessary.

(3) Insert name of place.

(4) For phraseology of this indorsement where the Plaintiff sues in person, see *Supreme Court Practice*. Vol 2, para 3.

(1) [(2) [The cause] [One of the causes] of action in respect of which the Plaintiff claim relief in this action arose wholly or in part at (3) in the district of the District Registry named overleaf.]

(4) This Writ was issued by Malkin Cullis & Sumption

of Inigo House, 29 Bedford Street, Covent Garden, London WC2E 9ED

~~[xxxxxxxxx~~

~~xxfx~~]

Solicitors for the said Plaintiffs whose address (2) [is] ~~[axx]~~ Jernbanegade 6, 1608 Copenhagen, Denmark. A body incorporated under the laws of Denmark.

[Group]

[~~District Registry~~]

5221

THE CHURCH OF SCIENTOLOGY ADVANCED ORGANIZATION SAINT HILL EUROPE AND AFRICA

Plaintiffs

V.

(1) ROBIN SCOTT
(2) RON LAWLEY
(3) MORAG BELLMAINE
(4) STEVEN BISBEY

Defendants

Writ of Summons

[Unliquidated Demand]

Date issued 19

Acknowledgment of service lodged 19

OFFICE COPY
SUPREME COURT
CENTRAL OFFICE
OF JUDICATURE

Malkin Cullis & Sumption
Inigo House
29 Bedford Street
Covent Garden
London WC2E 9ED
Tel: 01-379 3385
Ref: AT

Solicitors for the Plaintiffs.

Plaintiffs Solicitor

oyez The Solicitors' Law Stationery Society, plc, Oyez House, 237 Long Lane, London SE1 4PU
F138B 5-81
★ ★ ★ ★ ★
High Court A3B

5222

Laurie J. Bartilson
BOWLES & MOXON
6255 Sunset Blvd., Suite 2000
Hollywood, CA 90028
(213) 661-4030

Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY
INTERNATIONAL

FILED
CLERK, U.S. DISTRICT COURT
NOV 25 1991
CENTRAL DISTRICT OF CALIFORNIA
BY DEPUTY

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

CHURCH OF SCIENTOLOGY INTERNATIONAL a California Non-Profit Religious Organization

Plaintiff,

v.

STEVEN FISHMAN and UWE GEERTZ,

Defendants.

Case No. 91 6426 HLH (Tx)

COMPLAINT FOR PERSONAL INJURY

COMPLAINT

Plaintiff, Church of Scientology International, a California non-profit religious corporation ("Church"), sues defendants Steven Fishman ("Fishman") and Uwe Geertz ("Geertz") and alleges:

I.

Nature of the Action

1. Through a nationally published magazine, defendants Fishman and Geertz have falsely accused plaintiff of directing Fishman to murder Geertz and then commit suicide. This is an action for damages directly resulting from defendants' malicious publication of such untrue and defamatory statements of and concerning plaintiff.

II.

Jurisdiction and Venue

2. Plaintiff and defendants are citizens of different states. The Court has diversity jurisdiction of this lawsuit pursuant to 28 U.S.C. § 1332. The matter in controversy exceeds Fifty Thousand Dollars ($50,000) plus interest and costs.

3. Venue is proper in this Court pursuant to section 1391(a) of Title 28 of the United States Code in that jurisdiction is founded exclusively on diversity of citizenship and the claim arose in this judicial district by virtue of the publication of defendants' false and defamatory remarks of and concerning the Scientology religion in this district, an event which Fishman and Geertz intended when they committed the defamation and which was foreseeable at that time.

III.

Parties

4. Plaintiff Church of Scientology International is a non-profit religious corporation incorporated under the laws of the State of California, having its principal offices in the State of California. Plaintiff Church is the Mother Church of the Scientology Religion. Scientology is an internationally recognized religion, consisting of hundreds of churches and missions engaged solely in religious, charitable, humanitarian and community-oriented endeavors. The religion seeks to enhance its adherents' spiritual knowledge of themselves and their Creator. The Churches and

A. An award of compensatory damages in excess of $50,000.00 against each defendant;

B. An award of punitive damages in the amount of no less that $1,000,000.00 against each defendant; and

C. Such other and further relief as may be just and equitable.

Dated: November 25, 1991

Respectfully submitted,

BOWLES & MOXON

By: ______________________
Laurie J. Bartilson

Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY
INTERNATIONAL

DEPT. 88

SUPERIOR COURT OF CALIFORNIA , COUNTY OF LOS ANGELES

5225

Date: May 28, 1992
Honorable **Ronald M. Sohigian,** Judge
1

M. Cervantes, Deputy Clerk
None (E.R.M.)

BC 052395

(Parties and Counsel checked if present)

Church of Scientology, International

vs.

Gerald Armstrong, et al.

Counsel For Plaintiff

Counsel For Defendant

No Appearances

NATURE OF PROCEEDINGS: RULING ON MATTER TAKEN UNDER SUBMISSION ON MAY 27, 1992

In this matter heretofore taken under submission on May 27, 1992, the court now makes the following ruling.

1 Plaintiff's legal remedies are inadequate insofar as the scope of relief ordered below is concerned, but not otherwise. CCP 526(4) and (5).

2 The threatened acts which are restrained by the order referred to below, but only those threatened acts, would do irreparable harm to plaintiff which could not be compensated by monetary damages. CCP 526(2).

3 On the basis of the instant record, there is a reasonable probability that plaintiff will prevail after trial of this case in the respects restrained by this order. CCP 526(1); cf., San Francisco Newspaper Printing Co., Inc. vs. Superior Court (Miller) (1985) 170 Cal. App. 3d 438.

4 Plaintiff is likely to suffer greater injury from denial of the preliminary injunction the terms of which are set out below than the injury which defendant is likely to suffer if it is granted. See Robbins vs. Superior Court (County of Sacramento) (1985) 38 Cal. 3d 199, 206.

5 The granting of a preliminary injunction in the terms set out below will preserve the status quo pending trial.

SUPERIOR COURT OF CALIFORNIA , COUNTY OF LOS ANGELES

5226

Date: May 28, 1992
Honorable **Ronald M. Sohigian,** Judge
1a

M. Cervantes, Deputy Clerk
None (E.R.M.)

BC 052395

(Parties and Counsel checked if present)

Church of Scientology, International
vs.
Gerald Armstrong, et al.

Counsel For Plaintiff

Counsel For Defendant

No Appearances

NATURE OF PROCEEDINGS: RULING ON MATTER TAKEN UNDER SUBMISSION ON MAY 27, 1992

6 Application for preliminary injunction is granted in part, in the following respects only.

Defendant Gerald Armstrong, his agents, and persons acting in concert or conspiracy with him (excluding attorneys at law who are not said defendant's agents or retained by him) are restrained and enjoined during the pendency of this suit pending further order of court from doing directly or indirectly any of the following:

Voluntarily assisting any person (not a governmental organ or entity) intending to make, intending to press, intending to arbitrate, or intending to litigate a claim against the persons referred to in sec. 1 of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986 regarding such claim or regarding pressing, arbitrating, or litigating it.

Voluntarily assisting any person (not a governmental organ or entity) arbitrating or litigating a claim against the persons referred to in sec. 1 of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986.

The court does not intend by the foregoing to prohibit defendant Armstrong from: (a) being reasonably available for the service of subpoenas on him; (b) accepting service of subpoenas on him without physical resistance, obstructive tactics, or flight; (c) testifying fully and fairly in response to properly put questions either in deposition, at trial, or in other legal or arbitration proceedings; (d) properly reporting or disclosing to authorities criminal conduct of the persons referred to in sec. 1 of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986; or (e) engaging in gainful employment rendering clerical or paralegal services not contrary to the terms and conditions of this order.

DEPT. 88

SUPERIOR COURT OF CALIFORNIA , COUNTY OF LOS ANGELES

Date: May 28, 1992
Honorable **Ronald M. Sohigian,** Judge
1b

M. Cervantes, Deputy Clerk
None (E.R.M.)

BC 052395

(Parties and Counsel checked if present)

Church of Scientology, International
vs.
Gerald Armstrong, et al.

Counsel For Plaintiff

Counsel For Defendant

No Appearances

NATURE OF PROCEEDINGS: RULING ON MATTER TAKEN UNDER SUBMISSION ON MAY 27, 1992

The application for preliminary injunction is otherwise denied.

7 The restraints referred to in sec. 6, above, will become effective upon plaintiff's posting an undertaking in the sum of $70,000 pursuant to CCP 529(a) by 12:00 noon on June 5, 1992.

8 The restraints referred to in sec. 6, above, properly balance and accommodate the policies inherent in: (a) the protectable interests of the parties to this suit; (b) the protectable interests of the public at large; (c) the goal of attaining full and impartial justice through legitimate and properly informed civil and criminal judicial proceedings and arbitrations; (d) the gravity of interest involved in what the record demonstrates defendant might communicate in derogation of the contractual language; and (e) the reasonable interpretation of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986. The fair interpretation of all the cases cited by the parties indicates that this is the correct decisional process. The law appropriately favors settlement agreements. Obviously, one limitation on freedom of contract is "public policy"; in determining what the scope of the public policy limitation on the parties' rights to enforcement of their agreement in the specific factual context of this case, the court has weighed the factors referred to in the first sentence of this section. Litigants have a substantial range of contractual freedom, even to the extent of agreeing not to assert or exercise rights which they might otherwise have. The instant record shows that plaintiff was substantially compensated as an aspect of the agreement, and does not persuasively support defendant's claim of duress or that the issues involved in this preliminary injunction proceeding were precluded by any prior decision.

SUPERIOR COURT OF CALIFORNIA , COUNTY OF LOS ANGELES

Date: May 28, 1992 Honorable **Ronald M. Sohigian,** Judge **1c**	**M. Cervantes, Deputy Clerk** **None** (E.R.M.)

BC 052395

(Parties and Counsel checked if present)

Church of Scientology, International

vs.

Gerald Armstrong, et al.

Counsel For Plaintiff

Counsel For Defendant

No Appearances

NATURE OF PROCEEDINGS: RULING ON MATTER TAKEN UNDER SUBMISSION ON MAY 27, 1992

9 The court does not dispositively decide the underlying merits of the case except for this preliminary determination. CCP 526(1); Baypoint Mortgage Corp. vs. Crest Premium Real Estate etc. Trust (1985) 168 Cal. App. 3d 818, 823.

10 Plaintiff is ordered give written notice by mail by June 5, 1992, including in that written notice a statement regarding whether plaintiff has or has not posted the undertaking referred to in sec. 7, above, and attaching to that written notice evidence showing that the undertaking has been posted if that is the fact.

DATED: May 28, 1992.

RONALD M. SOHIGIAN

RONALD M. SOHIGIAN
Judge of the Superior Court

A copy of this minute order is sent to counsel via United States mail this date.

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 6255 Sunset Boulevard, Suite 2000, Los Angeles, CA 90028.

On February 23, 1995, I served the foregoing document described as REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR SUMMARY ADJUDICATION OF THE TWENTIETH CAUSE OF ACTION OF PLAINTIFF'S COMPLAINT on interested parties in this action,

[ ] by placing the true copies thereof in sealed envelopes as stated on the attached mailing list;

[X] by placing [ ] the original [X] true copies thereof in sealed envelopes addressed as follows:

FORD GREENE
HUB Law Offices
711 Sir Francis Drake Blvd.
San Anselmo, CA 94960-1949

MICHAEL WALTON
700 Larkspur Landing Circle
Suite 120
Larkspur, CA 94939

[x] BY FAX AND MAIL

[ ] *I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

[x] As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal

cancellation date or postage meter date is more than one day after date of deposit for mailing an affidavit.

Executed on February 23, 1995 at Los Angeles, California.

[ ] **(BY PERSONAL SERVICE) I delivered such envelopes by hand to the offices of the addressees.

Executed on ___________ at Los Angeles, California.

[X] (State) I declare under penalty of the laws of the State of California that the above is true and correct.

[ ] (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Laurie J. Bartilson
Print or Type Name

Signature

* (By Mail, signature must be of person depositing envelope in mail slot, box or bag)

** (For personal service signature must be that of messenger)

5231

Andrew H. Wilson, SBN 063209
WILSON, RYAN & CAMPILONGO
115 Sansome Street
Fourth Floor
San Francisco, California 94104
(415) 391-3900
Telefax: (415) 954-0938

Laurie J. Bartilson, SBN 139220
MOXON & BARTILSON
6255 Sunset Boulevard, Suite 2000
Hollywood, CA 90028
(213) 960-1936
Telefax: (213) 953-3351

Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY
INTERNATIONAL

FILED
FEB 27 1995
HOWARD HANSON
MARIN COUNTY CLERK
by P. Fan, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF MARIN

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation, Plaintiff, vs. GERALD ARMSTRONG; DOES 1 through 25, inclusive, Defendants.	CASE NO. BC 157680 NOTICE OF LODGING VIDEO TAPE AS EXHIBIT 1TT IN SUPPORT OF PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR SUMMARY ADJUDICATION OF THE TWENTIETH CAUSE OF ACTION OF PLAINTIFF'S COMPLAINT DATE: March 31, 1995 TIME: 9:00 a.m. DEPT: 1 DISCOVERY CUT-OFF: March 16, 1995 MTN CUT-OFF:April 18, 1995 TRIAL DATE: May 18, 1995

TO DEFENDANTS AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that plaintiff Church of Scientology International has lodged with the Court the following video tape of an interview with Gerald Armstrong as Exhibit 1TT to Plaintiff's Notice of Motion and Motion for Summary Adjudication of the

Twentieth Cause of Action of Plaintiff's Complaint.

Dated: February 23, 1995

Respectfully submitted,

Andrew H. Wilson
WILSON, RYAN & CAMPILONGO

By:
Laurie Bartilson
MOXON & BARTILSON

Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY
INTERNATIONAL

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 6255 Sunset Boulevard, Suite 2000, Los Angeles, CA 90028.

On February 23, 1995, I served the foregoing document described as NOTICE OF LODGING VIDEO TAPE AS EXHIBIT 1TT IN SUPPORT OF PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR SUMMARY ADJUDICATION OF THE TWENTIETH CAUSE OF ACTION OF PLAINTIFF'S COMPLAINT on interested parties in this action,

[ ] by placing the true copies thereof in sealed envelopes as stated on the attached mailing list;

[X] by placing [ ] the original [X] true copies thereof in sealed envelopes addressed as follows:

FORD GREENE
HUB Law Offices
711 Sir Francis Drake Blvd.
San Anselmo, CA 94960-1949

MICHAEL WALTON
700 Larkspur Landing Circle
Suite 120
Larkspur, CA 94939

[x] BY FAX AND MAIL

[ ] *I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

[x] As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal

cancellation date or postage meter date is more than one day after date of deposit for mailing an affidavit.

Executed on February 23, 1995 at Los Angeles, California.

[ ] **(BY PERSONAL SERVICE) I delivered such envelopes by hand to the offices of the addressees.

Executed on ___________ at Los Angeles, California.

[X] (State) I declare under penalty of the laws of the State of California that the above is true and correct.

[ ] (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Laurie J. Bartilson
Print or Type Name

Signature

* (By Mail, signature must be of person depositing envelope in mail slot, box or bag)

** (For personal service signature must be that of messenger)

ORIGINAL

5235

FILED

MAR 10 1995

HOWARD HANSON
MARIN COUNTY CLERK
BY: E. Keswick, Deputy

Gerald Armstrong
715 Sir Francis Drake Boulevard
San Anselmo, California 94960
Telephone: 415-456-8450

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF MARIN

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation, Plaintiff, vs. GERALD ARMSTRONG; MICHAEL WALTON; THE GERALD ARMSTRONG CORPORATION a California for-profit corporation; DOES 1 through 100, inclusive, Defendants.	No. 157 680 EX PARTE **APPLICATION TO** CONTINUE HEARING **ON MOTION FOR SUMMARY ADJUDICATION OF TWENTIETH CAUSE OF ACTION OF COMPLAINT** ✓ Date: 3/10/95 Time: 9:00 a.m. Dept: One Trial Date: 5/18/95

TO: CHURCH OF SCIENTOLOGY INTERNATIONAL AND ITS ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on March 10, 1995 at 9:00 a.m., in Department 1 of the above-entitled Court, located at the Hall of Justice at the Marin County Civic Center, San Rafael, California, defendant Gerald Armstrong, in pro per, will seek an ex parte order continuing the hearing on plaintiff's motion for summary adjudication of the twentieth cause of action of its complaint presently set for March 31, 1995.

This ex parte application is based upon the grounds that Scientology's motion for summary adjudication seeks an order which is so overreaching it will cripple defendant and destroy his litigant's and human rights; that the motion concerns more than twenty people or entities from whom defendant must obtain declarations in support of his opposition; that the motion and supporting papers are over six inches of documents and concern matters over a twenty-five year period of defendant's life; that defendant is not an attorney and not represented by an attorney; that defendant has no monetary resources nor the office equipment to generate legal papers; and, that plaintiff Scientology organization has threatened and intimidated his friends who would otherwise assist him with funding and equipment into refusal to help.

This ex parte application is based upon this notice, the attached declaration of Gerald Armstrong, the court's files and records in this case and such other material as is presented in support of this application.

DATED: March 10, 1995

By: ______________________
Gerald Armstrong

DECLARATION OF GERALD ARMSTRONG

I, Gerald Armstrong, declare:

1. I am the defendant in this case. I am not an attorney, not trained as an attorney, and do not have an attorney's knowledge or skills. Until February 23, 1995 I was represented by attorney Ford Greene.

2. On February 27, 1995 I received from plaintiff Scientology organization its motion for summary adjudication of its twentieth cause of action of its complaint. A copy of its memorandum of points and authorities is appended hereto as Exhibit A. A copy of the order Scientology seeks with its motion is appended hereto as Exhibit B. Scientology seeks a permanent injunction with is overreaching and if granted would hopelessly cripple me as a litigant, and destroy my civil and human rights.

3. Scientology's motion for summary adjudication and supporting documents is over six inches thick. The motion involves over twenty people or other entities who must be contacted to obtain declarations to support whatever opposition I will file.

4. From the time I have been in pro per I have attempted to obtain competent counsel to represent me in this litigation. I have communicated substantively with five attorneys, each of whom has declined to represent me. I have other possibilities for assistance with my case which I am following up at this time. I firmly believe that in

the United States there are lawyers with the requisite courage and interest to successfully defend this case.

5. I have been since August, 1990 a renunciant, seeking only what is necessary to continue to do God's Will, which, in large part, has been the defense of this action. The fact of my renunciation is well known to this Court and I will not repeat that history at this time. I refer this Court to my declaration/literary work entitled "I Declare" filed herein. I have, therefore, no monetary resources to pay an attorney. I am preparing a campaign to ask for funds from people and organization's around the world who have an interest in the outcome of this case. Scientology is widely viewed as a antisocial, dangerous, anti-religious cult which is a threat to justice, true religion and freedom of thought, and by telling my story and the issues involved I believe I can raise funds from that wide field necessary to retain legal counsel.

6. I presently do not have a computer or printer. I am borrowing the use of the computer on which I am typing this ex parte application and declaration from Ford Greene, for whom I work. I cannot, however, use the computer or office equipment after hours, and my office work for Mr. Greene on his other cases is full time. I cannot produce, even if I cannot obtain a lawyer, the legal papers necessary to defend myself without a computer and printer.

7. Approximately three weeks ago I approached my

friend Michael Douglas of San Rafael to request a loan of $5,000.00 to be able to pay some bills and survive, and to request some help to obtain and set up a computer system to be able to do my own work. I have been good friends with Mr. Douglas since 1975. He and his wife are two of the people whose debts to me I forgave in August, 1990 at the time of my renunciation. They are two of the Does in the "fraudulent conveyance" part of this case. According to Mr. Douglas's testimony in deposition the amount of the forgiveness was approximately $80,000.00. Appended hereto as Exhibit C is an excerpt from Mr. Douglas's deposition taken August 30, 1994. I had helped Mr. and Mrs. Douglas in various ways through the years, and assisted them in other matters which made them money. After I requested the loan from Mr. Douglas, who, I also knew to have recently come into a large inheritance, he advised me that because he was afraid of repercussions from Scientology should he assist me with a loan he was contacting the organization. He then reported to me that Scientology, through one of its Directors, Michael Rinder, had told him that he could not loan me any money, and that if he did Scientology would make trouble for him.

8. A few days later I was called by Mrs. Douglas and requested to come to their house at a certain time. When I arrived there I was met by Mr. and Mrs. Douglas and Mr. and Mrs. Michael Walton, defendants in the "fraudulent

conveyance" action. Each one of these people expressed that he or she had been terrified by the Scientology organization, and that they could not help me in any way in the future. The only thing I had done which "involved" these people in the attack by Scientology, had been to convey to them unattached gifts or forgive significant debts the owed me at the time was called to renounce my worldly wealth.

9. I view it as perverse and unlawful that Scientology, claiming that I had fraudulently conveyed my assets to the Douglases and the Waltons, and that these people were holding these assets for me to make me judgement proof, should threaten them with litigation or any other threat, should they help me in my time of need with a small loan. I also believe it is unlawful for Scientology to eliminate any chance of my successful defense of this case by threatening those to whom I have gone for help. Scientology cannot now take advantage of its improper actions to beat on me while I'm helpless.

10. I am requesting that the hearing on the motion for summary adjudication be set for April 14, 1995.

11. I will be bringing a motion next Monday to continue the trial date to allow me the opportunity to obtain counsel and bring such counsel up to speed.

12. I advised Scientology attorney, Laurie Bartilson, in person at 10:30 a.m. yesterday that I would seek a

continuance of the hearing date ex parte today if she would stipulate to such a continuance. Ms. Bartilson stated at approximately 1:20 p.m. yesterday that her client had refused to so stipulate.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at San Anselmo, California, on March 10, 1995.

GERALD ARMSTRONG

ORDER

GOOD CAUSE appearing therefor, it is hereby ORDERED that the hearing on the motion for summary adjudication shall be continued to April 14, 1995. 9AM

DATED: March 10, 1995

Gary W. Thomas

Judge of the Superior Court

Andrew H. Wilson, SBN 063209
WILSON, RYAN & CAMPILONGO
115 Sansome Street
Fourth Floor
San Francisco, California 94104
(415) 391-3900
Telefax: (415) 954-0938

Laurie J. Bartilson, SBN 139220
MOXON & BARTILSON
6255 Sunset Boulevard, Suite 2000
Hollywood, CA 90028
(213) 960-1936
Telefax: (213) 953-3351

Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY
INTERNATIONAL

RECEIVED
FEB 27 1995
HUB LAW OFFICES

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF MARIN

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation,

Plaintiff,

vs.

GERALD ARMSTRONG; DOES 1 through 25, inclusive,

Defendants.

CASE NO. BC 157680

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT PLAINTIFF'S MOTION FOR SUMMARY ADJUDICATION OF THE TWENTIETH CAUSE OF ACTION OF PLAINTIFF'S COMPLAINT

DATE: March 31, 1995
TIME: 9:00 a.m.
DEPT: 1

DISCOVERY
CUT-OFF: March 16, 1995
MTN CUT-OFF: April 18, 1995
TRIAL DATE: May 18, 1995

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I. PRELIMINARY STATEMENT

Plaintiff, Church of Scientology International ("the Church"), seeks summary adjudication of its Twentieth Cause of Action against defendant Gerald Armstrong, and the entry of a permanent injunction pursuant thereto.

A permanent injunction is necessary in this action because defendant Gerald Armstrong's breaches of the 1986 settlement agreement ("the Agreement") are repeated, unceasing, and increasingly harmful to the Church. Armstrong's determination to ignore the provisions of the Agreement despite legal action is dramatically evidenced simply by the progression of the pleadings in this case:

* When this action was filed, the Church had evidence of four breaches of the Agreement by Armstrong, beginning in July 1991, which it set forth in its original complaint;

* By June 4, 1992, the Church was forced to amend its complaint to add seven more causes of action which it had discovered;

* In July 1993 Armstrong's additional breaches of the agreement had grown so numerous that the Church filed a second, separate action alleging those claims;

* These were consolidated into the present operative pleading -- the Second Amended Complaint -- which now addresses 19 separate breaches of the Agreement by Armstrong;

* Armstrong was deposed again in August and October, 1994. During those deposition sessions, he admitted to in excess of 29 additional breaches of the agreement, each of which is delineated in full in the accompanying Separate Statement of Undisputed Facts.[1]

For years, Armstrong has insisted that the Church cannot enforce the Agreement and simply ignored all reasonable efforts by the Church or the courts to persuade him to abide by his word. After a preliminary injunction was entered against him, Armstrong proclaimed in deposition:

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[1] At the end of the second day of deposition, Armstrong's attorney volunteered that he would not oppose a motion by the Church to amend the complaint yet again to include these newly admitted breaches.

> I have absolutely no intention of honoring that settlement agreement. I cannot. I cannot logically. I cannot ethically. I cannot morally. I cannot psychically. I cannot philosophically. I cannot spiritually. I cannot in any way. And it is firmly my intention not to honor it.
>
> Q. No matter what a court says?
>
> A. No court could order it. They're going to have to kill me.

[Sep.St.No. 87].[2]

Indeed, as recently as February 2, 1995, Armstrong sent a letter to a Church employee, which he claimed to have copied to "Media," to which he attached a copy of a declaration which this Court had ordered stricken on January 27, 1994. In the letter Armstrong reiterated his refusal to abide by the Agreement, claiming

> What Scientology is doing with me is suppressive, and threatening to justice, wisdom and innocent people everywhere. I will continue to stand my ground and I refuse to be suppressed. . . . As long as I breathe I will continue to do what I see as God's will, and continue to bring Scientology's evil nature to the light of truth.

[Sep.St.No. 97].

This Court has already adjudicated, however, that the Agreement is valid and may be enforced against Armstrong, enforcing paragraph 7(D) of the Agreement as to two of the many breaches [Sep.St.No. 1]. In May, 1992, the Los Angeles Superior Court entered a preliminary injunction enforcing still other provisions of the Agreement [Sep.St.No. 86]. Here, plaintiff has set forth all of the undisputed evidence which compels the conclusion that plaintiff is entitled to a permanent injunction which prohibits Armstrong from violating key provisions of the Agreement. Specifically, plaintiff seeks an injunction which:

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[2] All references to evidence are to the Separate Statement of Undisputed Facts, concurrently filed, which provides, by number, a full reference to the evidence in support of this motion. References will be made to "Sep.St.No. __" for "Separate Statement of Undisputed Facts, Fact Number __."

1. Prohibits Armstrong[3] from voluntarily assisting private litigation adversaries[4] of the Church and/or the protected entities and individuals,[5] or from assisting would-be anti-Scientology claimants;

2. Prohibits Armstrong from facilitating in any way the publication of any book, article, film, television program, radio program or other literary, artistic or documentary work of any kind which discusses Scientology and/or any of the Beneficiaries;

3. Prohibits Armstrong from discussing Scientology and/or the Beneficiaries with third parties other than members of his immediate family;

4. Requires Armstrong to remove all information concerning the Church and/or any of the Beneficiaries from any and all databases, electronic or otherwise, within the possession, custody or control of Armstrong's Colorado corporation, FACTNet;[6]

5. Requires Armstrong to return to the Church any documents which he now has in his possession, custody or control which discuss or concern the Church and/or any of the Beneficiaries;[7] and

---

[3] Plaintiff requests that the permanent injunction apply to Armstrong, the Gerald Armstrong corporation, their agents or employees, and persons acting in concert or conspiracy with them. For the full text of the injunction which plaintiff requests, see Proposed Order of Permanent Injunction, filed concurrently herewith.

[4] The Church is mindful of this Court's comments when summarily adjudicating the Fourth and Sixth Causes of Action concerning governmental bodies, and is not seeking a permanent injunction which would restrict Mr. Armstrong's voluntary assistance to governmental entities.

[5] Paragraph 1 of the Agreement lists the individuals and entities to be protected by the Agreement. They are hereinafter referred to collectively as "the Beneficiaries."

[6] "FACTNet" stands for "Fight Against Coercive Tactics Network, Inc." It is a Colorado corporation which Armstrong formed, with friend Lawrence Wollersheim, to provide access to materials for persons who were engaged in litigation with various Churches of Scientology, or who were contemplating pressing such claims [Sep.St.Nos. 81-85].

[7] Recognizing that Armstrong will argue that such a prohibition could prevent him from further litigating in this action, the proposed permanent injunction order provides that documents actually filed in this litigation could be retained by Armstrong's counsel, for the

(continued...)

6. Prohibits Armstrong from acquiring or creating in the future any repository, collection, or database (electronic or otherwise) of documents which discuss or concern the Church and/or any of the Beneficiaries.

Each of these proposed prohibitions are reasonable and lawful restrictions to which Armstrong agreed in December, 1986, and for which he received more than $500,000 in settlement.

II. STATEMENT OF FACTS

A. The Settlement Agreement

As this Court has already found, in December, 1986, Armstrong entered into the Agreement with the Church, freely, voluntarily, and without duress. [Sep. St. No. 1.] The Agreement provided for a mutual release and waiver of all claims arising out of a cross-complaint which defendant Armstrong had filed in Church of Scientology of California v. Gerald Armstrong, Los Angeles Superior Court No. C 420153. The Agreement contains various provisions designed to guarantee that new actions were not spawned or encouraged by the conclusion of the old one.[8] In particular, various paragraphs of the Agreement provided that Armstrong: (1) would not provide voluntary aid or advice to others litigating against the Church; (2) would not create or publish, or assist another in creating or publishing, any media publication or broadcast concerning information about the Church of Scientology, L. Ron Hubbard, or any other persons or entities released by the Agreement; (3) would maintain "strict confidentiality and silence" with respect to his alleged experiences with the Church or any knowledge he might have concerning the Church, L. Ron Hubbard or other Scientology-related entities and individuals; and (4) would not keep or disclose any

---

[7](...continued)
sole purpose of completing the trial and resolution of this matter, and that once the matter is finally adjudicated, those files would remain sealed in Mr. Greene's possession and unavailable to Mr. Armstrong or to others. Documents which Armstrong has merely acquired or created, but which are not a part of the file in this case, should be returned to the plaintiff. See Order of Injunction (Proposed).

[8] See specifically ¶¶ 7(H), 7(G), 10, 7(D), 18(D), 20 of the Agreement [Sep.St.Nos. 4-10].

documents which related to the Church or other protected entities and individuals.

Armstrong admittedly received more than half a million dollars as his portion of a total settlement paid to his attorney, Michael Flynn, in a block settlement concerning all of Mr. Flynn's clients who were in litigation with any Church of Scientology or related entity. [Sep.St.Nos. 2-3.]

B. Armstrong's Admitted Breaches Of The Agreement

That Armstrong has repeatedly breached numerous provisions of the Agreement is not in dispute. The evidence of these breaches consists of Armstrong's own admissions and documents, and is referenced in detail in the accompanying Separate Statement of Undisputed Facts.

1. Breaches Consisting of Voluntary Assistance To Adverse Litigants And/Or Claimants

Paragraphs 7(G), 7(H) and 10 of the Agreement prohibit Armstrong from assisting or advising anyone "contemplating any claim or engaged in litigation" which is adverse to the Church or to any of the Beneficiaries of the Agreement. Armstrong agreed not to voluntarily assist others "adverse to Scientology," and not to testify in proceedings other than pursuant to a lawfully issued subpoena. Between 1991 and the present, Armstrong has admitted to providing voluntary assistance, exclusive of testimony pursuant to subpoena, to the following private individuals and/or their attorneys, in direct breach of these provisions:

* Vicki and Richard Aznaran, anti-Scientology litigants in the case of Vicki Aznaran, et al. v. Church of Scientology International, United States District Court for the Central District of California, Case No. CV 88-1786 (JMI) [Sep.St.Nos. 11-16];

* Joseph A. Yanny, anti-Scientology litigant in the case of Religious Technology Center et al. v. Joseph Yanny, et al., Los Angeles Superior Court No. C 690211 and Religious Technology Center et al. v. Joseph Yanny, et al., Los Angeles Superior Court No. BC 033035 [Sep.St.Nos. 17-20];

* Malcolm Nothling, anti-Scientology litigant in the matter between Malcolm

Nothling and the Church of Scientology in South Africa, Adi Codd, Diane Kemp, Glen Rollins; Supreme Court of South Africa (Witwatzbsrand Local Division) Case No. 19221/88. [Sep.St.Nos. 21-24];

* Reader's Digest Corporation, anti-Scientology litigant in the case of Church of Scientology of Lausanne vs. Kiosk AG, Basel, Switzerland [Sep.St.Nos. 25-26];

* Richard Behar, anti-Scientology litigant in the case of Church of Scientology International v. Time Warner, Inc.; Time Inc. Magazine Company and Richard Behar, United States District Court, Southern District of New York, Case No. 92 Civ. 3024 PKL [Sep.St.Nos. 27-28];

* Steven Hunziker, anti-Scientology litigant in the case of Hunziker v. Applied Materials, Inc., Santa Clara Superior Court Case No. 692629 [Sep.St.Nos. 29-33];

* David Mayo, anti-Scientology litigant in the case of Religious Technology Center v. Robin Scott, et al., United States District Court for the Central District of California, Case No. 85-711 [Sep.St.Nos. 34-35];

* Cult Awareness Network, anti-Scientology litigant in the case of Cult Awareness Network v. Church of Scientology International, et al., Circuit Court of Cook County, Illinois, No. 94L804 [Sep.St.Nos. 38-39];

* Lawrence Wollersheim, anti-Scientology litigant in the cases of Lawrence Wollersheim v. Church of Scientology of California, Los Angeles Superior Court Number C332027 and Church of Scientology of California v. Lawrence Wollersheim, Los Angeles Superior Court Number BC074815 [Sep.St.Nos. 40-42];

* Ronald Lawley, anti-Scientology litigant in the cases of Religious Technology Center, et al. vs. Robin Scott, et al., U.S. District Court, Central District of California, Case No. 85-711 MRP(Bx); Matter Between Church of Scientology Advanced Organization Saint Hill Europe and Africa, and Robin Scott, Ron Lawley, Morag Bellmaine, Stephen Bisbey in the High Court of Justice Queen's Bench Division, Case 1984 S No. 1675; and Matter Between Church of Scientology Religious Education College Inc., and Nancy Carter, Ron Lawley, Steven Bisbey, in

the High Court of Justice Queen's Bench Division, Case 1986 C No. 12230 [Sep.St.Nos. 43-44];

* Uwe Geertz and Steven Fishman, anti-Scientology litigants in the case of Church of Scientology International v. Steven Fishman, et al., United States District Court for the Central District of California Number 91-6426 HLH(Tx) [Sep.St.Nos. 45-46];

* Tilly Good, a claimant against the Church of Scientology, Mission of Sacramento Valley [Sep.St.Nos. 36-37];

* Denise Cantin, a claimant against the Church of Scientology of Orange County; Church of Scientology of Boston; and Church of Scientology, Flag Service Organization [Sep.St.Nos. 36-37]; and

* Ed Roberts, a claimant against the Church of Scientology of Stevens Creek [Sep.St.Nos. 36-37].

2. Breaches Consisting of Creating, Assisting Or Attempting To Create Media Publications Concerning Scientology

In paragraph 7(D) of the Agreement, Armstrong agreed, in part, that he would not create or publish, or assist another in creating or publishing, any media publication or broadcast concerning information about the Church, L. Ron Hubbard or any of the other Beneficiaries of the Agreement. This Court has already enforced this portion of paragraph 7(D), by granting summary adjudication as to the Sixth Cause of Action [Request For Judicial Notice, Ex. C]. Between 1992 and the present, Armstrong has admitted to assisting (or attempting to assist) the following individuals and/or publications in creating or publishing a media publication or broadcast concerning the Church and/or the Beneficiaries:

* Cable Network News: reporter Don Knapp, in March, 1992 [Sep.St.Nos. 47-48];

* American Lawyer Magazine: reporter Bill Horne, in March, 1992 [Sep.St.No. 49];

* Los Angeles Times: reporter Bob Welkos, in May, 1992; and reporter Joel

Sappell, in June, 1993 [Sep.St.Nos. 50-51];

- CAN Video Interview, with anti-Scientologists "Spanky" Taylor and Jerry Whitfield, in November, 1992 [Sep.St.No. 52];
- KFAX Radio: interview planned but prevented in April, 1993 [Sep.St.No. 53];
- Newsweek Magazine: reporter Charles Fleming, in June, 1993 and August, 1993 [Sep.St.No. 54-56];
- Daily Journal: reporter Mike Tipping, in June, 1993 [Sep.St.No. 57];
- Time Magazine: reporter Richard Behar, in March, 1992 and in June, 1993 [Sep.St.Nos. 58-59];
- San Francisco Recorder: reporter Jennifer Cohen, in August, 1993 [Sep.St.No. 60];
- E! Entertainment Network: reporter Greg Agnew, in August, 1993 [Sep.St.No. 61];
- WORD Radio: Pittsburgh, Pennsylvania, interviewed in the fall of 1993 [Sep.St.No. 62];
- St. Petersburg Times: St. Petersburg, Florida, reporter Wayne Garcia, in the fall of 1993 [Sep.St.No. 63];
- Premiere Magazine: letter to the editor, in October, 1993 [Sep.St.No. 64];
- Mirror-Group Newspapers: United Kingdom, in May, 1994 [Sep.St.No. 65];
- Gauntlet Magazine: New York, New York, reporter Rick Cusick in June, 1994 [Sep.St.No. 66];
- Pacific Sun Newspaper: reporter Rick Sine, in June and July, 1994 [Sep.St.No. 67];
- Disney Cable: reporter Marsha Nix, in August, 1994 [Sep.St.No. 68]; and
- Tom Voltz: Swiss author writing a book about Scientology, in October, 1994 [Sep.St.No. 69].

In addition, Armstrong has admitted to preparing and copyrighting at least three manuscripts discussing his claimed Scientology experiences, including a screen play [Sep.St.Nos. 70-71]. In July, 1993, Armstrong wrote to his friend, Lawrence Wollersheim,

> [A]s I mentioned a couple of weeks back, I have registered a treatment of my Scientology experiences for motion picture purposes. I will now forward with a synopsis of the later years to possible producers. This project, I think, will be where many of my hours in the next couple of years will go, and will bring me into direct conflict with the Scientology organization on its beachhead in Hollywood.

[Sep.St.No. 70].

3. Additional Breaches Consisting of Discussing Scientology, The Church, And/Or The Beneficiaries With Others

In paragraphs 7(D) and 7(H) of the Agreement, Armstrong further agreed that beyond his immediate family members, he would not discuss with others his knowledge and information about Scientology, his experiences in or with Scientology, or their knowledge of or experiences with Scientology. This Court has already enforced this confidentiality portion of paragraph 7(D), by granting summary adjudication as to the Fourth Cause of Action [Sep.St.No. 1]. Of course, many of the breaches discussed in Parts II B1&2, supra, were also breaches of this portion of the Agreement. However, Armstrong has also admitted to violations of this paragraph of the Agreement with the following additional persons or groups, not earlier identified: Robert Lobsinger [Sep.St.No. 72]; the New York Times [Sep.St.No. 73]; Toby Plevin, Stuart Culter, Anthony Laing, Kent Burtner, and Margaret Singer [Sep.St.No. 74]; Priscilla Coates [Sep.St.No. 75]; Omar Garrison [Sep.St.No. 76]; Vaughn and Stacy Young [Sep.St.No. 77]; a Stanford University psychology class [Sep.St.No. 78]; attendees at the 1992 Cult Awareness Network Convention [Sep.St.No. 79]; and Hana Whitfield [Sep.St.No. 80].

4. The Creation Of FACTNet To Breach The Agreement

In June, 1993, Armstrong and anti-Scientologist Lawrence Wollersheim organized "Fight Against Coercive Tactics Network, Inc." (hereinafter "FACTNet") a Colorado non-profit corporation [Sep.St.No. 81].

Armstrong has testified under oath that he was an incorporator of FACTNet and served as its first president [Sep.St.No. 81]. According to Armstrong, FACTNet was organized "to create an electronic means of assisting the battle against harmful mind control in its various forms and through its various arms, one of which -- and undeniably a major one in my life -- was Scientology." [Sep.St.No. 82]. He has described FACTNet as "the electronic backup" to anti-Scientology litigation, and has admitted that the purposes of assembling the database included "providing access to materials for persons who were engaged in litigation with various Church of Scientology entities," and "making information available to persons who might be contemplating pressing claims against various Church of Scientology entities." [Sep.St.No. 83].

Armstrong has further admitted that he himself was a major contributor to the anti-Scientology library contained in FACTNet's database. He has admitted that he supplied anti-Scientology materials for FACTNet's database before FACTNet was incorporated, while he was its president, and after he ceased to be an officer of FACTNet [Sep.St.No. 84]. He has admitted to supplying FACTNet with declarations, personal writings, exhibits and other documents which Armstrong had "possessed and assembled." Armstrong estimated that he had contributed in the neighborhood of two to three inches of anti-Scientology documents to FACTNet. [Id.] In a July 4, 1993 letter to Lawrence Wollersheim, Armstrong stated that he expected his role in FACTNet to be one of "strategy, planning and consultation." [Sep.St.No. 85].

C. Armstrong's Intention To Commit Future Breaches

Armstrong's intention to continue to breach the Agreement, regardless of the consequences, is also not in dispute. Indeed, Armstrong's response to every request by plaintiff that he honor the Agreement, and every Court Order enforcing the Agreement, has been defiance.

On May 28, 1992, the Honorable Ronald Sohigian of the Los Angeles Superior Court issued a preliminary injunction in this action, which provided in relevant part:

> Defendant Gerald Armstrong, his agents, and persons acting in concert or conspiracy with him (excluding attorneys at law who are not said defendant's agents or retained by him) are restrained and enjoined during the pendency of this suit pending further order of this court from doing directly or indirectly any of the following:

> Voluntarily assisting any person (not a governmental organ or entity) intending to make, intending to press, intending to arbitrate, or intending to litigate a claim against the persons referred to in sec. 1 of the "Mutual Release of All Claims and Settlement Agreement" of December 1986 regarding such claim or regarding pressing, arbitrating or litigating it.
>
> Voluntarily assisting any person (not a governmental organ or entity) arbitrating or litigating a claim against the persons referred to in sec. 1 of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986.

[Sep.St.No. 86].[9] The Court of Appeal upheld this injunction [Sep.St.No. 1]. Nonetheless, Armstrong has proclaimed, repeatedly and as recently as mere weeks ago, that he has no intention of honoring the promises which he made in the Agreement or abiding by the preliminary injunction. A review of Armstrong's own statements concerning the injunction and the agreement makes it plain that this Court must issue a permanent injunction which is crystal clear and broad in scope. Armstrong will use any creative argument he can invent to avoid his legal obligations. For example:

+ Less than a month after the May 28 Order was issued, Armstrong asserted under oath in deposition:

> I have absolutely no intention of honoring that settlement agreement. I cannot. I cannot logically. I cannot ethically. I cannot morally. I cannot psychically. I cannot philosophically. I cannot spiritually. I cannot in any way. And it is firmly my intention to not honor it.
>
> Q. No matter what a court says?
>
> A. No court could order it. They're going to have to kill me.

[Sep.St.No. 87].

+ In November, 1992, Armstrong gave a lengthy videotaped interview concerning his Scientology experiences to anti-Scientologists, in which he described the preliminary injunction as follows:

---

[9] At the time of the hearing on the preliminary injunction, the Church was not aware of many of Armstrong's breaches, which have since been revealed. Armstrong's interviews with the media, creation of the videotape, preparation of a screenplay and creation of the FACTNet database, for example, were not presented to the Court in the Church's request for preliminary injunction. In seeking permanent injunction, the Church requests an expansion of the preliminary injunction that would prohibit all of the violations of the Agreement proven herein.

> I cannot, except pursuant to a subpoena, assist someone intending to file a claim or pressing a claim against the organization. Now then we are appealing even that narrow ruling, because that's unenforceable because if you construe that my ... that this video could possibly indirectly help someone in the future, I can't do this. And not only that but if you consider that my existence indirectly or directly helps someone, then I'll oblige to take my own life. In other words I must stop breathing.

[Sep.St.No. 88].

+ On December 22, 1992, Armstrong sent a letter to plaintiff's counsel,[10] in which he threatened that if the Church did not pay him $500,000 and dismiss this lawsuit, he would travel to South Africa to testify against a Church of Scientology, give interviews to the media, and assist anyone and everyone opposing Churches that he could locate [Sep.St.No. 89]. Expressing the viewpoint that the May 28 Order placed no restrictions whatsoever on his conduct, Armstrong stated:

> I consider myself free to do anything anyone can, except testify absent a subpoena. Much of what I am permitted to do I am going to do. . . .
>
> I will continue to associate with and befriend all those people I consider you attack unjustly and senselessly. I will make my knowledge and support available to the Cult Awareness Network, a group of people of good will you vilify, in all the litigation you have fomented against them[11]. . . . I will even make my knowledge and support available to entities like Time and people like Rich Behar in their defenses from your attacks.[12]

[Sep.St.No. 90]. In that same letter, Armstrong made plain the personal contempt which he had for a court which would rule against him:

---

[10] In what can only be described as deliberate harassment, Armstrong also sent copies of the letter to 35 individuals and groups, including anti-Church litigants, such as Vicki and Richard Aznaran, Larry Wollersheim and Joseph Yanny, and lawyers who represent clients in actions brought against one of more churches, including Toby Plevin, John Elstead and Daniel Leipold.

[11] The Cult Awareness Network is an anti-religious group that advocates the kidnapping and forcible "deprogramming" of individuals belonging to religions which they have identified as "cults." While the Church is not presently suing the Cult Awareness Network in any litigation, the Cult Awareness Network and its Excutive Director, Cynthia Kisser, have initiated three actions against various Church of Scientology [Sep.St.No. 38].

[12] Behar is the author of a Time cover story concerning the Church which ran in May, 1991. The Church is presently engaged in a lawsuit against Time and Behar for defamation [Sep.St.Nos. 27].

> There is also, as mentioned above, the fact that in order to defend myself from your attacks and to fund the defense of the litigation you have fomented I must speak and must publish. I'm sure you understand that I remain completely confident that no court, other than the odd one your mercenaries are able to compromise with bucks, babes or bull, will order me not to defend myself.

[Sep.St.No. 91].

+ In February, 1993, Armstrong executed a declaration in which he had this to say about the preliminary injunction:

> When I received and read the Sohigian ruling I sought to divine its meaning and apply it sensibly to my life, work and legal situation. If it meant precisely what it said then I would have to stop breathing because by breathing I would be indirectly assisting any person litigating a claim against the organization entities referred to in sec. 1 of the settlement agreement. Obviously, therefore, Judge Sohigian did not mean what he stated. If he meant only that I could not, as opposed to passive assistance to litigating claimants such as breathing, living and writing magazine articles for the public generally, physically act to help such a claimant personally, I would have to ensure every little old lady or little old man I might escort across the road was not such a claimant. I am certain Judge Sohigian did not intend that. . . .I do not believe such non-assistance covenants or orders are legal or do anything but obstruct the administration of justice and attempt to destroy mens' souls.

[Sep.St.No. 92].

+ Armstrong has also insisted, repeatedly, that the plain provisions of the Agreement simply don't apply to him. On May 3, 1993, he wrote to plaintiff's counsel, Laurie Bartilson, saying:

> You are in error in your interpretation of the December 6, 1986 settlement agreement. I did not agree on that date to forego future media appearances for a substantial sum of money. . . .

[Sep.St.No. 93]. According to Armstrong's twisted logic, by insisting that Armstrong was required to abide by the written agreement, the Church was engaging in what he termed "continuing calumny," and justifying his further breaches. According to Armstrong, preventative actions taken by Ms. Bartilson to restrain a media appearance by Armstrong were "obscene":

> Your threat that you will subject me to the liquidated damages provision of the agreement for appearing [on a radio program] is obscene. Even its inclusion in the settlement agreement, that is $50,000 per word I write or speak about your organization is obscene.

[Sep.St.No. 93].

+ In a letter to plaintiff's counsel dated August 16, 1993, Armstrong took a new approach to the problem: he decided to proclaim that his breaches of the Agreement were not discrete, but rather a single, continuing breach, which he would not end:

> [M]y breaching of the agreement has continued unabated since 1990. It is my duty, therefore, to continue that breach unabated until the agreement is rescinded and no longer exists to be breached. This letter also serves to advise you and your client to not waste its victims "donations" sending around its camera-toting PIs to try to catch me in an instant when I am doing something other than my unbroken breach. If I am not heard to be breaching the agreement at any moment, I have not stopped doing so, but am just between words or breaching in whisper. Even in my sleep, though I may not be somniloquizing, I am in every instant breaching the agreement.

[Sep.St.No. 94].

+ In June, 1994, Armstrong gave an interview to Pacific Sun reporter Rick Sine, in which he claims to have given Sine still another interpretation of the Agreement: that his breaches were dictated by fate:

> I stated that, certainly at one point, that the settlement agreement was unenforceable from the start; and according to the language of the settlement agreement, it was absolutely impossible to live, live by it; and I realize it would have driven me absolutely nuts to even attempt. Nevertheless, I had tried to live by it and live within what I call the spirit of settlement, unless I arrived at a point where it simply was impossible and I had to take a stand and had to do -- take the acts, do the things that I ended up doing.

[Sep.St.No. 95]. In a letter to the editor of that paper, Armstrong boasted, just a few weeks later, that Judge Sohigian "refused the organization's gargantuan effort to gag me. . . . I rarely had to consider violating the injunction to help [people]. Everyone else I help with impunity." [Sep.St.No. 96].

+ On January 27, 1995, this Court adjudicated Armstrong to be in breach of the Agreement and ordered him to pay plaintiff $100,000 for these breaches. Just a few days later, Armstrong took it upon himself to write to the Church, copying the "media," his proclamation that the Court's Order would not stop him from future breaches:

> What Scientology is doing with me is suppressive, and threatening to justice, wisdom and innocent people everywhere. I will continue to stand my ground and I refuse to be suppressed. . . . As long as I breathe I will continue to do what I see as God's will, and continue to bring Scientology's evil nature to the light of truth.

[Sep.St.No. 97].

Obviously, Armstrong does not consider the Agreement, or its liquidated damages provisions, to be a deterrent, or to restrict his conduct in any way. A permanent, specific, and forceful injunction is necessary to restore to plaintiff the status quo which existed in December, 1986.

III. ARGUMENT

A. The Necessity Of A Permanent Injunction May Be Determined By Summary Adjudication

A motion for summary adjudication "shall be granted if all the papers submitted show that there is no triable issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Code Civ. Proc. § 437c(c). As demonstrated below, and in the Separate Statement of Undisputed Facts, the Church has met its burden by proving, from Armstrong's own admissions, each element of the cause of action for injunctive relief. This Court has already determined that Armstrong's claimed affirmative defenses are inadequate as a matter of law. [Order of January 27, 1995.]

Once the moving party has shown the nonexistence of a factual dispute as to a material fact, the party opposing the motion can avoid summary adjudication only by presenting evidence tending to demonstrate that there exists a triable issue of material fact. See, e.g., University of Southern California v. Superior Court (1990) 222 Cal.App.3d 1028, 1036, 272 Cal.Rptr. 264.

Indeed, courts have found summary adjudication to be particularly appropriate for resolving a cause of action for breach of a written contract. "Where there is no conflict as to the terms of a contract, and where its provisions are not uncertain or ambiguous, its 'meaning and effect * * * and the relation of the parties to it thereby created * * * become a question of law to be decided by the court.'" Nizuk v. Georges (1960) 180 Cal.App.2d 699, 705, 4 Cal.Rptr. 565, 570 (citations omitted) (liability under written employment contract properly decided on motion for summary judgment). Permanent injunctive relief may be had without trial where, as here, the facts which support issuance of the permanent injunction are undisputed. Camp v. Mendocino County Board of Supervisors (1981) 123 Cal.App.3d 334, 357-358, 176 Cal.Rptr. 620, 635.

B. An Injunction May Be Granted To Prevent The Breach Of A Contract The Performance Of Which Would Be Specifically Enforced

C.C.P. § 526 empowers the court to grant an injunction to prevent a breach of a contract if the contract is one which may be specifically enforced. C.C.P. § 526; see also, Steinmeyer v. Warner Consolidated Corp. (1974) 42 Cal.App.3d 515, 518, 116 Cal.Rptr. 57, 60 ("An injunction cannot be granted to prevent breach of a contract which is not specifically enforceable."); Southern Christian Leadership Conference of Greater Los Angeles v. Al Malaikah Auditorium Co. (1991) 230 Cal.App.3d 207, 281 Cal.Rptr. 216. The Agreement at issue is one which may be specifically enforced by this Court as the contract is sufficiently definite and certain in its terms, it is just and reasonable, the plaintiff has performed its side of the bargain, Armstrong has breached the contract, the Agreement was supported by adequate consideration, and the Church's remedy at law is inadequate. Taramind Lithography Workshop, Inc. v. Sanders (1983) 143 Cal.App.3d. 571, 575, 193 Cal.Rptr. 409, 410.

A permanent injunction may be granted to prevent breach of contract "[w]here pecuniary compensation would not afford adequate relief" or "[w]here the restraint is necessary to prevent a multiplicity of judicial proceedings." Civil Code § 3422(1), (3). As demonstrated below, both of these circumstances are present in this case.

Civil Code § 3389 expressly provides that a liquidated damages provision does not preclude a contract from being specifically enforceable. Accordingly, the Court is empowered to grant a permanent injunction to enjoin Armstrong from further breach, not withstanding that some, but not all, of the clauses in the settlement agreement provide for liquidated damages.

C. Prevention Of Irreparable Injury And Avoidance Of Multiplicity Of Actions Requires The Court To Issue A Permanent Injunction

The Los Angeles Court has already issued a preliminary injunction enforcing the settlement agreement. Moreover, Scientology's former Mother Church, the Church of

Scientology of California ("CSC"), has already obtained injunctions and specific performance of similar settlement agreements. Thus, while C.C.P. § 526(5) deters the granting of injunctions to prevent the breach of a contract "the performance of which would not be specifically enforced," this Agreement patently is specifically enforceable. In Wakefield v. Church of Scientology of California (11th Cir. 1991) 938 F.2d 1226, CSC obtained specific performance of an agreement substantially similar to this Agreement. CSC moved to enforce the provisions of the settlement agreement, and the district court ordered hearings before the magistrate judge, who concluded that Wakefield had violated the agreement. The district court adopted the magistrate judge's findings and issued a preliminary and permanent injunction prohibiting Wakefield from violating the agreement. Id. When Wakefield violated the injunction, again making media appearances, CSC sought an order to show cause why Wakefield should not be held in contempt. At an in camera proceeding, the magistrate judge found that Wakefield had willfully violated the injunction, and recommended that the case be referred to the United States Attorney's office for criminal contempt proceedings. Id. at 4628.

Although the district court's issuance of the injunction in Wakefield was not at issue in the Eleventh Circuit proceedings, the Eleventh Circuit described in its opinion, "Wakefield's constant disregard and misuse of the judicial process," suggesting approval of the district court's actions. Id. at 4630.

Similarly, in McLean v. Church of Scientology of California (11th Cir. 1991) (Slip Op.) plaintiff McLean also entered into a settlement agreement containing confidentiality provisions preventing her from discussing the litigation with anyone outside her immediate family. Id. at 2. By her own testimony, McLean admitted to reacquiring certain documents and using them to "counsel" Church members. She further admitted to discussing certain aspects of the suit with people outside her immediate family. Id. at 5. As a result, the appellate court affirmed the district court order permanently enjoining McLean from disclosing any information about her lawsuit and the resulting settlement agreement. Id. at 6.

Just as the district courts in Wakefield and McLean found it necessary to issue permanent injunctions to enforce the agreement of the parties, so should this Court issue a permanent injunction to enjoin Armstrong from further breaches which he candidly promises.

1. The Church Will Be Irreparably Harmed Absent The Issuance Of An Injunction

The Los Angeles Court and the Court of Appeal have already found in this case that the Church's legal remedies against Armstrong are inadequate. [Sep.St.No. 1, 86]. Not only is Armstrong assisting adversaries of the Church, he is doing so to foster and perpetuate relentless litigation against the Church to serve his own ends. Armstrong's conduct is continuous, oppressive and malicious and has been undertaken for the express purpose of injuring the Church. Even the Court's preliminary injunction order has been viewed so myopically by Armstrong as permitting him to violate the provisions of the Agreement not specifically enumerated in the injunction, instead of prohibiting him from future breaches. Only a detailed permanent injunction fully enforcing the contractual provisions has any hope of stopping Armstrong from waging his malicious, relentless war.

Although some of Armstrong's breaches are subject to a liquidated damages clause, others, including the continual violations which he is engaging in through his operation of FACTNet, are not. Moreover, Armstrong's breaches which are subject to the liquidated damages clause are so numerous that it is patently obvious that Armstrong does not regard the possibility of a large monetary judgment against him as a deterrent. All of these violations must, accordingly, be enjoined.

2. Armstrong Must Be Permanently Enjoined To Prevent A Multiplicity Of Actions

Armstrong has dramatically demonstrated, during the pendency of this action, just why a permanent injunction must issue if the Church is to have meaningful relief. Most of the breaches of the Agreement described in the Statement of Facts occurred after the initial complaint in this action was filed. While some of them were added to the Second Amended Complaint, the most recent events are not the subject of this action, yet they are among the most egregious. For example, on February 2, 1995, right after this Court ordered him to pay plaintiff $100,000 in liquidated damages, Armstrong chose to circulate a declaration stricken by this Court, to which he attached copied versions of the Church's confidential religious scripture, to the media. He announced, by letter, that he intends to "stand his ground" and continue to breach the Agreement. If a permanent injunction does not issue and these threats are carried out by Armstrong, additional, repetitive litigation will be necessary for the Church to secure its rights pursuant to the Agreement.

3. A Balancing Of The Equities Requires The Court To Issue A Permanent Injunction

In determining whether to grant injunctive relief, the Court must balance the equities before it and exercise its discretion in favor of the party most likely to be injured. Robbins v. Superior Court (1985) 38 Cal.3d 199, 205, 211 Cal.Rptr. 398, 402. In balancing the equities, the Court considers the harm that plaintiff is likely to suffer if the injunction is denied as compared to the harm that defendants are likely to suffer if the injunction is granted. Id. at 206.

Armstrong has no equities whatsoever in this action. No one has any right to continue to violate a settlement agreement. Armstrong already has received the benefits of the Agreement in the form of substantial monetary compensation. Armstrong's only "injury" if he is enjoined is that he will not be able to violate the Agreement in the future.[13] On the other hand, the harm that will be suffered by the Church absent injunctive relief is the irreparable harm of being victimized by Armstrong's violations, while others with interests adverse to the Church benefit in legal proceedings from an unfettered flow of breached obligations, wrongful disclosures and fiduciary infidelity. Furthermore, California courts have long recognized the public interest in encouraging settlements (which necessitates that such settlement agreements be enforceable on the parties concerned). Phelps v. Kozakar (1983) 146 Cal.App.3d 1078, 1081, 194 Cal.Rptr. 872, 874. Thus, the balancing of the equities unquestionably favors the Church.

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[13] Armstrong has argued unsuccessfully that enforcement of the Agreement would infringe on his First Amendment rights. However, Judge Sohigian, this Court, and the Court of Appeal have all firmly held that Armstrong may, and has, contracted away these rights.

IV. CONCLUSION

As demonstrated herein, the Church has suffered substantial and irreparable harm due to Armstrong's deliberate and systematic violations of the Agreement, and will continue to do so absent issuance of a permanent injunction. The facts of the making of the Agreement, performance by the Church, Armstrong's repeated breaches, and Armstrong's dedication to continuing to breach the Agreement are undisputed. A preliminary injunction has already issued, which has restrained Armstrong from violating some of the provisions of the Agreement, but which has not prevented him from additional breaches. Issuance of a permanent injunction is necessary for plaintiff to obtain meaningful relief.

For all of the foregoing reasons, plaintiff requests that the Court enter a permanent injunction enforcing the terms of the Agreement, according to the Proposed Order filed herewith.

Dated: February 23, 1995

Respectfully submitted,

Andrew H. Wilson
WILSON, RYAN AND CAMPILONGO

MOXON & BARTILSON

By: ______________________
Laurie J. Bartilson

Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY
INTERNATIONAL

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 6255 Sunset Boulevard, Suite 2000, Los Angeles, CA 90028.

On February 23, 1995, I served the foregoing document described as MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT PLAINTIFF'S MOTION FOR SUMMARY ADJUDICATION OF THE TWENTIETH CAUSE OF ACTION OF PLAINTIFF'S COMPLAINT on interested parties in this action,

[ ] by placing the true copies thereof in sealed envelopes as stated on the attached mailing list;

[X] by placing [ ] the original [X] true copies thereof in sealed envelopes addressed as follows:

FORD GREENE
HUB Law Offices
711 Sir Francis Drake Blvd.
San Anselmo, CA 94960-1949

MICHAEL WALTON
700 Larkspur Landing Circle
Suite 120
Larkspur, CA 94939

[x] BY FAX AND MAIL

[ ] *I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

[x] As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal

cancellation date or postage meter date is more than one day after date of deposit for mailing an affidavit.

Executed on February 23, 1995 at Los Angeles, California.

[ ] **(BY PERSONAL SERVICE) I delivered such envelopes by hand to the offices of the addressees.

Executed on ____________ at Los Angeles, California.

[X] (State) I declare under penalty of the laws of the State of California that the above is true and correct.

[ ] (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Laurie J. Bartilson
Print or Type Name

Signature

* (By Mail, signature must be of person depositing envelope in mail slot, box or bag)

** (For personal service signature must be that of messenger)

5268

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Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY
INTERNATIONAL

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF MARIN

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation, Plaintiff, vs. GERALD ARMSTRONG; DOES 1 through 25, inclusive, Defendants.	CASE NO. BC 157680 [PROPOSED] ORDER OF PERMANENT INJUNCTION DATE: March 31, 1995 TIME: 9:00 a.m. DEPT: 1 DISC.CUT-OFF: Mar. 19, 1995 MTN CUT-OFF: Apr. 18, 1995 TRIAL DATE: May 18, 1995

This matter came on for hearing on August 31, 1994, on motion of plaintiff Church of Scientology International ("the Church") for Summary Adjudication of the Fourth, Sixth and Eleventh Causes of Action of the Second Amended Complaint. Plaintiff Church of Scientology International appeared by its attorneys, Andrew H. Wilson of Wilson, Ryan & Campilongo and Laurie J. Bartilson of Bowles & Moxon, defendant Armstrong appeared by his attorney, Ford Greene. Having read and considered the moving and opposing papers, and the evidence and arguments presented therein and at the hearing, and good cause appearing:

IT IS ORDERED:

The Church's motion for summary adjudication of the twentieth cause of action of the Second Amended Complaint is GRANTED. The Court finds that there is no triable issue of material fact as to any of the following:

1. Plaintiff and defendant freely and voluntarily entered into a Mutual Release of All Claims and Settlement Agreement ("Agreement") in December, 1986.

2. Plaintiff performed all of its obligations pursuant to the Agreement.

3. Defendant Armstrong received substantial consideration for the promises which he made in the Agreement.

4. Since 1990, defendant Armstrong has repeatedly breached paragraphs 7(D), 7(E), 7(H), 7(G), 10, 18(D) and 20 of the Agreement.

5. Between 1991 and the present, Armstrong breached paragraphs 7(G), 7(H) and 10 of the Agreement by providing voluntary assistance, exclusive of testimony made pursuant to a valid subpoena, to the following private individuals, each of whom was pressing a claim or engaged in litigation with plaintiff and/or one or more of the persons and entities referred to in paragraph 1 of the Agreement:

* Vicki and Richard Aznaran, anti-Scientology litigants in the case of Vicki Aznaran, et al. v. Church of Scientology International, United States District Court for the Central District of California, Case No. CV 88-1786 (JMI) [Sep.St.Nos. 11-16];

* Joseph A. Yanny, anti-Scientology litigant in the case of Religious Technology Center et al. v. Joseph Yanny, et al., Los Angeles Superior Court No. C 690211 and Religious Technology Center et al. v. Joseph Yanny, et al., Los Angeles Superior Court No. BC 033035 [Sep.St.Nos. 17-20];

* Malcolm Nothling, anti-Scientology litigant in the matter between Malcolm Nothling and the Church of Scientology in South Africa, Adi Codd, Diane Kemp,

Glen Rollins; Supreme Court of South Africa (Witwatzbsrand Local Division) Case No. 19221/88. [Sep.St.Nos. 21-24];

* Reader's Digest Corporation, anti-Scientology litigant in the case of Church of Scientology of Lausanne vs. Kiosk AG, Basel, Switzerland [Sep.St.Nos. 25-26];

* Richard Behar, anti-Scientology litigant in the case of Church of Scientology International v. Time Warner, Inc.; Time Inc. Magazine Company and Richard Behar, United States District Court, Southern District of New York, Case No. 92 Civ. 3024 PKL [Sep.St.Nos. 27-28];

* Steven Hunziker, anti-Scientology litigant in the case of Hunziker v. Applied Materials, Inc., Santa Clara Superior Court Case No. 692629 [Sep.St.Nos. 29-33];

* David Mayo, anti-Scientology litigant in the case of Religious Technology Center v. Robin Scott, et al., United States District Court for the Central District of California, Case No. 85-711 [Sep.St.Nos. 34-35];

* Cult Awareness Network, anti-Scientology litigant in the case of Cult Awareness Network v. Church of Scientology International, et al., Circuit Court of Cook County, Illinois, No. 94L804 [Sep.St.Nos. 38-39];

* Lawrence Wollersheim, anti-Scientology litigant in the cases of Lawrence Wollersheim v. Church of Scientology of California, Los Angeles Superior Court Number C332027 and Church of Scientology of California v. Lawrence Wollersheim, Los Angeles Superior Court Number BC074815 [Sep.St.Nos. 40-42];

* Ronald Lawley, anti-Scientology litigant in the cases of Religious Technology Center, et al. vs. Robin Scott, et al., U.S. District Court, Central District of California, Case No. 85-711 MRP(Bx); Matter Between Church of Scientology Advanced Organization Saint Hill Europe and Africa, and Robin Scott, Ron Lawley, Morag Bellmaine, Stephen Bisbey in the High Court of Justice Queen's Bench Division, Case 1984 S No. 1675; and Matter Between Church of Scientology Religious Education College Inc., and Nancy Carter, Ron Lawley, Steven Bisbey, in the High Court of Justice Queen's Bench Division, Case 1986 C No. 12230

[Sep.St.Nos. 43-44];

* Uwe Geertz and Steven Fishman, anti-Scientology litigants in the case of Church of Scientology International v. Steven Fishman, et al., United States District Court for the Central District of California Number 91-6426 HLH(Tx) [Sep.St.Nos. 45-46];

* Tilly Good, a claimant against the Church of Scientology, Mission of Sacramento Valley [Sep.St.Nos. 36-37];

* Denise Cantin, a claimant against the Church of Scientology of Orange County; Church of Scientology of Boston; and Church of Scientology, Flag Service Organization [Sep.St.Nos. 36-37]; and

* Ed Roberts, a claimant against the Church of Scientology of Stevens Creek [Sep.St.Nos. 36-37].

6. Between 1992 and the present, Armstrong breached paragraph 7(D) of the Agreement by contacting media representatives, granting interviews and attempting to assist media representatives in the preparation for publication or broadcast magazine articles, newspaper articles, books, radio and television programs, about or concerning the Church and/or other persons and entities referred to in paragraph 1 of the Agreement. These media representatives included:

* Cable Network News: reporter Don Knapp, in March, 1992 [Sep.St.Nos. 47-48];

* American Lawyer Magazine: reporter Bill Horne, in March, 1992 [Sep.St.No. 49];

* Los Angeles Times: reporter Bob Welkos, in May, 1992; and reporter Joel Sappell, in June, 1993 [Sep.St.Nos. 50-51];

* CAN Video Interview, with anti-Scientologists "Spanky" Taylor and Jerry Whitfield, in November, 1992 [Sep.St.No. 52];

* KFAX Radio: interview planned but prevented in April, 1993 [Sep.St.No. 53];

* Newsweek Magazine: reporter Charles Fleming, in June, 1993 and August,

1993 [Sep.St.No. 54-56];

- Daily Journal: reporter Mike Tipping, in June, 1993 [Sep.St.No. 57];
- Time Magazine: reporter Richard Behar, in March, 1992 and in June, 1993 [Sep.St.Nos. 58-59];
- San Francisco Recorder: reporter Jennifer Cohen, in August, 1993 [Sep.St.No. 60];
- E! Entertainment Network: reporter Greg Agnew, in August, 1993 [Sep.St.No. 61];
- WORD Radio: Pittsburgh, Pennsylvania, interviewed in the fall of 1993 [Sep.St.No. 62];
- St. Petersburg Times: St. Petersburg, Florida, reporter Wayne Garcia, in the fall of 1993 [Sep.St.No. 63];
- Premiere Magazine: letter to the editor, in October, 1993 [Sep.St.No. 64];
- Mirror-Group Newspapers: United Kingdom, in May, 1994 [Sep.St.No. 65];
- Gauntlet Magazine: New York, New York, reporter Rick Cusick in June, 1994 [Sep.St.No. 66];
- Pacific Sun Newspaper: reporter Rick Sine, in June and July, 1994 [Sep.St.No. 67];
- Disney Cable: reporter Marsha Nix, in August, 1994 [Sep.St.No. 68]; and
- Tom Voltz: Swiss author writing a book about Scientology, in October, 1994 [Sep.St.No. 69].

7. Between 1992 and the present, Armstrong breached paragraph 7(D) of the Agreement by preparing and distributing at least three manuscripts concerning his claimed experiences in and with Scientology, including a treatment for a screenplay which he intends to turn into a film [Sep.St.Nos.70-71].

8. Between 1991 and the present, Armstrong further breached paragraph 7(D) of the Agreement by disclosing his claimed experiences in or with Scientology to each of the

following persons or groups, not previously identified: Robert Lobsinger [Sep.St.No. 72]; the New York Times [Sep.St.No. 73]; Toby Plevin, Stuart Culter, Anthony Laing, Kent Burtner, and Margaret Singer [Sep.St.No. 74]; Priscilla Coates [Sep.St.No. 75]; Omar Garrison [Sep.St.No. 76]; Vaughn and Stacy Young [Sep.St.No. 77]; a Stanford University psychology class [Sep.St.No. 78]; attendees at the 1992 Cult Awareness Network Convention [Sep.St.No. 79]; and Hana Whitfield [Sep.St.No. 80].

9. In June, 1993, Armstrong organized "Fight Against Coercive Tactics, Inc." ("FACTNet"), a Colorado non-profit corporation, for the purpose of creating an electronic database for use in anti-Scientology litigation [Sep.St.Nos. 81-82]. Armstrong provided declarations, documents, strategy and planning to FACTNet[Sep.St.Nos. 84-85]. Armstrong admits that the purposes of assembling database include "providing access to materials for persons who were engaged in litigation with various Church of Scientology entities," and "making information available to persons who might be contemplating pressing claims against various Church of Scientology entities." [Sep.St.No. 83].

10. Defendant Armstrong has reiterated numerous times that he intends to continuing breaching the Agreement unless he is ordered by the Court to cease and desist [Sep.St.Nos. 87-97].

11. Plaintiff's legal remedies are inadequate insofar as the scope of the relief ordered below is concerned. Tamarind Lithography Workshop, Inc. v. Sanders (1983) 143 Cal.App.3d 571, 577-578, 193 Cal.Rptr. 409, 413.

Accordingly, the Court finds that entry of a permanent injunction in this action is necessary in this action because pecuniary compensation could not afford the Church adequate relief, and the restraint is necessary in order to prevent a multiplicity of actions for breach of contract. Civil Code § 3422(1),(3). A ORDER of injunction is therefore entered as follows:

Defendant Gerald Armstrong, his agents, employees, and persons acting in concert or conspiracy with him are restrained and enjoined from doing directly or indirectly any of the following:

1. Voluntarily assisting any person (not a governmental organ or entity) intending to make, intending to press, intending to arbitrate, or intending to litigate a claim against any of the persons or entities referred to in paragraph 1 of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986, regarding such claim or regarding pressing, arbitrating, or litigating it;

2. Voluntarily assisting any person (not a governmental organ or entity) defending a claim, intending to defend a claim, intending to defend an arbitration, or intending to defend any claim being pressed, made, arbitrated or litigated by any of the persons or entities referred to in paragraph 1 of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986, regarding such claim or regarding defending, arbitrating, or litigating against it;

3. Voluntarily assisting any person (not a governmental organ or entity) arbitrating or litigating adversely to any person or entity referred to in paragraph 1 of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986;

4. Facilitating in any manner the creation, publication, broadcast, writing, filming audio recording, video recording, electronic recording or reproduction of any kind of any book, article, film, television program, radio program, treatment, declaration, screenplay or other literary, artistic or documentary work of any kind which discusses, refers to or mentions Scientology, the Church, and/or any person or entity referred to in paragraph 1 of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986;

5. Discussing with anyone, not a member of Armstrong's immediate family or his attorney, Scientology, the Church, and/or any person or entity referred to in paragraph 1 of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986;

6. Acquiring or creating in the future any repository, collection, or database (electronic or otherwise) of writings, recordings, documents, or books of any kind, which discuss or concern Scientology, the Church and/or any person or entity

referred to in paragraph 1 of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986.

In addition, it is ORDERED that, within 20 days of the issuance of this Order, Armstrong shall:

1. Remove all information concerning Scientology, the Church and/or any person or entity referred to in paragraph 1 of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986 from any and all databases, electronic or otherwise, within the possession, custody or control of FACTNet;

2. Return to the Church any documents which he now has in his possession, custody or control which discuss or concern Scientology, the Church and/or any person or entity referred to in paragraph 1 of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986, other than documents which have been filed in this litigation.

It is further ORDERED that during the pendency of this litigation, documents which have been filed in this litigation may be retained by Armstrong's counsel. Those documents are to remain sealed, in the possession of Mr. Greene or any successor counsel, and may not be distributed to third parties. At the conclusion of the instant litigation, it is ORDERED that all documents from this case in counsel's possession which do not comprise counsel's work product will be delivered to counsel for plaintiff. Counsel's work product may be retained by Armstrong's counsel.

DATED: __________, 1995

THE HONORABLE GARY W. THOMAS
SUPERIOR COURT JUDGE

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 6255 Sunset Boulevard, Suite 2000, Los Angeles, CA 90028.

On February 23, 1995, I served the foregoing document described as [PROPOSED] ORDER OF PERMANENT INJUNCTION on interested parties in this action,

[ ] by placing the true copies thereof in sealed envelopes as stated on the attached mailing list;

[X] by placing [ ] the original [X] true copies thereof in sealed envelopes addressed as follows:

FORD GREENE
HUB Law Offices
711 Sir Francis Drake Blvd.
San Anselmo, CA 94960-1949

MICHAEL WALTON
700 Larkspur Landing Circle
Suite 120
Larkspur, CA 94939

[x] BY FAX AND MAIL

[ ] *I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

[x] As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing an affidavit.

Executed on February 23, 1995 at Los Angeles, California.

[ ] **(BY PERSONAL SERVICE) I delivered such envelopes by hand to the offices of the addressees.

Executed on ___________ at Los Angeles, California.

[X] (State) I declare under penalty of the laws of the State of California that the above is true and correct.

[ ] (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Laurie J. Bartilson
Print or Type Name

Signature

* (By Mail, signature must be of person depositing envelope in mail slot, box or bag)

** (For personal service signature must be that of messenger)

5278

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF MARIN

---oOo---

COPY

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation, Plaintiff,	
vs.	NO. 152-229
GERALD ARMSTRONG; DOES 1 through 25, inclusive, Defendants.	
AND RELATED CROSS-ACTION.	

DEPOSITION OF:

MICHAEL DOUGLAS

VOLUME I - AUGUST 30, 1994 - PAGES 1-53

VOLUME II - SEPTEMBER 2, 1994 - PAGES 54-164

Reported by:
PENNY L. GILMORE
CSR NO. 4724

PENNY L. GILMORE & ASSOCIATES
DEPOSITION REPORTERS
P.O. BOX 862
ROSS, CALIFORNIA 94957
(415) 457-7899

conversation, the second conversation you are talking about?

A. Mr. Wilson seemed remarkably evenhanded and natural.

Q. You felt comfortable talking to him?

A. Yes.

Q. What's your relationship to Mr. Armstrong?

A. I've been a friend of Mr. Armstrong since about 1975 or so.

Q. Probably end up calling him Gerry throughout most of this day.

A. Okay.

Q. Do you still consider yourself a friend of Gerry's?

A. Yes.

Q. Has Gerry ever transferred any interest in property to you or forgiven any debts to you?

A. He has forgiven debts to me and perhaps interest in property.

Q. Can you tell me about the real property first?

A. He didn't transfer any interest in real property to me other than he forgave me a note which was secured by a lien on real property.

Q. How did that come about, is what I'm trying to get?

A. Once upon a time Gerry and I rented parts of the same house; subsequently together we purchased that house.

Q. Where was that house?

A. That house was in Berkeley, 7140 Buckingham Boulevard.

Q. Did you buy it as partners?

A. I think we bought it as tenants in common.

Q. How did that partnership work? Did you put up equal amounts of money?

A. No, Gerry had quite a bit of cash and I had quite a bit of cash flow, so Gerry put up the bulk of the money and I ended up making the bulk of the payments.

Q. Do you remember how much money Gerry put up?

A. No.

Q. What happened to that partnership?

A. Gerry bought another house so he quit-claimed his interest in that property to me and my wife for consideration of a note secured by that property.

Q. I'm sorry, where was the house that Gerry bought?

A. 6838 Charing Cross.

Q. And I don't quite understand what he quit-claimed.

A. He quit-claimed his interest in 7140 Buckingham.

Q. For what note? What was the note that was transferred?

A. A calculation was made of what Gerry's interest would be in that property, and given as I didn't have any cash I executed a note in favor of Gerry on which I made payments of interest and principal.

Q. How much was that note?

A. I don't remember, but it's in the neighborhood of $60,000.

Q. I'm going to show you a couple of documents and these will be next in order.

(Whereupon Defendant's Exhibit 1
was marked for identification.)

MR. WALTON: Q. So this is a note that has what appears to be your signature?

A. Maybe I'm wrong. I must be wrong on the amount.

Q. Is this your signature?

A. Yes.

Q. Why don't you look at it a second?

A. Okay.

(Witness reads documents.)

A. This is a different note from the one I was talking about.

Q. Which note is this?

A. I guess this was when I figured out to put down in writing the agreement we had about how we were going to finance this house together.

Q. When you say "this house," you mean Buckingham?

A. Buckingham.

Q. So you prepared this note?

A. Correct.

(Whereupon Defendant's Exhibit 2 was marked for identification.)

MR. WALTON: Q. Is this your signature?

A. Yes.

Q. Just check it out for a second.

(Witness reads document.)

A. Okay.

Q. What's this note?

A. This note supercedes and voids this previous note, and this is the note I was referring to in our earlier conversation wherein Gerry bought Charing Cross and I bought his interest in Buckingham, and because I didn't have any money I gave him this note.

Q. You secured that note with a deed of trust?

A. Correct.

Q. And just see if this is the deed of trust.

(Whereupon Defendant's Exhibit 3 was marked for identification.)

THE WITNESS: That's my signature.

MR. WALTON: Q. That's your signature and this is the note. Did you prepare this note, too?

A. Yes.

Q. Both notes and the deed of trust note secured by the deed of trust you prepared?

A. Correct.

Q. I'm going to show you one more note which will be number four.

(Whereupon Defendant's Exhibit 4
was marked for identification.)

MR. WALTON: Q. Do you recognize that note?

A. I see my signature. I forgot about this note.

Q. Do you remember what it was for?

A. I was, again, strapped for cash and I acted as Gerry's real estate broker in some transaction. I'm pretty sure this had to do with his purchase of yet another property, the Fawn Drive property in San Anselmo. And for various reasons I had promised to rebate to him part of my commission. I believe that because I was in financial straits, I really needed money, so I arranged to borrow back the money that I had agreed to pay Gerry and this was the note for that money.

MR. GREENE: When you say "this," that's Exhibit four?

THE WITNESS: Correct.

MR. WALTON: Q. I'm sorry, continue.

A. When Gerry purchased Fawn Drive I was the real estate broker in this partnership that had been put together to build the house. So I got the real estate commission when the house was finally sold. The house in fact didn't sell. So finally Gerry bought that house from the partnership. I was the real estate broker and I had promised Gerry to rebate part of my commission to him, and the amount of that rebate was probably in the neighborhood of $10,000. In any case, I then borrowed $10,000 from Gerry and secured it by this note. Best of my recollection, I think that's what this was.

Q. So eventually you ended up owning Buckingham?

A. Correct.

Q. And then where did you move from Buckingham?

A. When Gerry bought Fawn Drive I bought Charing Cross.

Q. From Gerry?

A. From Gerry.

Q. Do you remember how much you paid for it?

A. Approximately -- I think it was $355,000.

Q. Other than this note for $66,988.48 and this note for 10,000, was there any other evidence of encumbrances on either of the two houses that you got from Gerry?

A. I don't believe so. The Charing Cross house I purchased outright with a new loan and deed of trust from World Savings.

Q. Eventually did Gerry forgive these two debts? When I say "these two debts" --

A. Exhibit four and exhibits two and three, yes, he did.

Q. When was that?

A. Says here August 30th, 1990.

Q. Other than that approximately $75,000, did Gerry forgive any other debts or encumbrances or notes?

A. Anything else?

Q. Anything else.

A. Gerry and I entered into a partnership called the Whynot Group, one word, and at the time he forgave me these debts and forgave other people's debts and stuff he also gave up any right he had to the Whynot Group, but the Whynot Group had a minimal monetary value at that time, as I recall.

Q. Do you remember what approximately it was?

A. Approximately -- it was a computer.

Q. Other than the computer and the $75,000 that's it?

A. Yes. Oh, there is a -- we loaned, the Whynot Group loaned to some young single person something like $3,000 to help her buy some real estate. She was poor and black. Most of that was paid back except for $300, and I lost track of that whole thing, so...

Q. That's approximately -- that was -- I'm not sure what that means. Does that mean the Whynot Group got the money and you kept it because you now had the Whynot Group?

A. No, it means the Whynot Group kept it and spent it. The Whynot Group did not have a bank account of any substance by the time we dissolved it.

Q. Do you remember when Gerry forgave these debts, forgave these notes?

A. Best of my recollection, they were all August 30th, 1990.

Q. Did you ever talk to Gerry in advance of that date about his intention to forgive them?

A. Yeah.

Q. Do you remember when he first told you that he was thinking about forgiving notes and divesting?

A. Prior to this date.

Q. Do you remember how far in advance?

A. No, but best of my recollection it would have been within 30 days, I think.

Q. Do you remember having any conversations specifically with him?

A. No.

Q. Do you remember the sort of gist of any conversations you had with him?

A. Yes, the gist of his giving all his financial stuff away was that he had been talking and writing for some time about his disagreement with the way finances were dealt with, and finally he told me that he was called, as in divinely inspired, to take the step himself of divesting himself of all sorts of financial stuff, and that seemed in keeping with the kinds of conversations and writings and thoughts and philosophies that I'd known him to espouse prior to that time.

Q. What had you known of his espousal of those kinds of things prior to that time?

A. Gerry and I were friends so we would have conversations about philosophy and life and he would write quite a lot of things and I ended up, prior to the fire, with quite a collection of Gerald Armstrong's writings, some of which represented finances and money, stuff like that.

Q. Did you ever have conversations with him about his religious leanings?

A. Sure.

Q. Did you know that Gerry had founded a church?

A. In fact, I was a member. Maybe I still am.

Q. When was The Church founded?

A. Somewhere in the neighborhood of 1987 or eight.

Q. When did you become a member?

A. Soon after I heard about it.

I should mention here that it just occurred to me in referring to one of your earlier questions that one of the two attorneys for Scientology did ask me about that and I told them that as I recall there was just one requirement for membership in The Church and that was to accept the idea that if any two members of The Church were to gather together, then God was present there, also. And I agreed with that, so I consented in joining The Church.

Q. What was the name of the church?

A. Just The Church.

Q. So when Gerry told you that he had been called, is that what you said?

A. Mm-hmm.

Q. That didn't seem out of keeping with who you perceived Gerry to be?

A. Not at all, although I had some concerns.

Q. What were your concerns?

A. I had concerns that my friend was giving away all his assets and I was wondering how he would get along in life and whether this was a rational decision.

Q. Did you speak to anybody about those concerns?

A. I spoke to my wife, Kima; I spoke to you; I spoke to Nancy Rodes, who were Gerry's -- my impression was we were some of Gerry's closest friends.

Q. What conclusions did you come to with respect to your conversations with Kima?

A. My sense was the consensus was sort of reached amongst all the four parties that I mentioned that Gerry, if eccentric, was sane; that he had the right to do this; and that we weren't going to stand in the way.

Q. Do you remember how many conversations you and I had?

A. No, but at least one, maybe two. Possibly more. I don't know.

Q. What about the Gerald Armstrong Corporation, did you receive any of that stock?

A. Yes.

Q. How much did you receive?

A. I don't remember, but I do remember -- seems to me that some of that stock was given to me on the same date or around the same day as this debt forgiveness, and subsequently to that I purchased a share or possibly more than two shares. Somewhere between one and two shares.

Q. How much did you pay?

A. As I recall, it was $1,000 a share.

Q. Did you ever go to shareholders' meetings?

A. I recall one shareholder meeting.

Q. Who was there?

A. Gerry was there; I was there; you were there; Nancy Rodes may have been there; Bambi may have been there, may not have been there.

Q. Did Bambi have a different name?

A. Phippeny, Lorean Phippeny.

Q. Do you remember what was discussed at that shareholder meeting?

A. No. Well, yes. Mostly Gerry's art projects. I think the one thing that stands out in my mind, he had an idea of laying out this large mandala, this really large mandala and photographing it from the air. That was the thing that stands out. That's the thing I can really remember.

Q. What was going to happen with the mandala after it was photographed?

A. What was to happen? I don't recall. It was just his idea, an artist's conception.

Q. Was it going to be a corporate logo?

A. I don't remember.

Q. Do you remember any discussions about any kind of ways the corporation was going to try to generate income?

A. Through marketing of Gerry's artistic properties.

Q. Including the mandala?

A. Including the mandala.

Q. Do you remember any discussion about Runners Against Trash?

A. Yes.

Q. What was that?

A. Gerry's a serious runner and at some point he started picking up trash along the way as he went. That formed into an idea to make sort of an institution out of it.

Q. Why was he picking up trash?

A. To clean up the environment. So he thought something that he could do for the world would be to kind of promote this idea of the Rat Pack, R-A-T, Runners Against Trash, promote the idea and make money off of T-shirts and logos and decals and all that kind of stuff, make money out of something that was doing good for the environment.

Q. Anything happen to that project, do you know?

A. Something happened but I don't really know. I don't know that any money was ever made from it.

Q. Any other specific projects, can you recall?

A. No.

Q. Were you ever in any discussions about the dickhead/picklehead series of art?

A. Oh, yes.

Q. What was that?

A. Gerry has a rather flamboyant signature and there was a period when he started coloring those in and they made this sort of humanoid figure and he called them dickheads. And it seemed like people liked them, so he kept drawing more and more dickheads; in fact, he used to sign his checks with dickheads and his checks were ostensibly more as dickheads than they were as checks. So people would collect them. So he put out Christmas cards, which were really quite good, and I had some hopes here was something finally that really had some commercial viability to it. I don't know that he finally ever made any significant money from it.

Q. Were you ever aware of the corporation having any kind of bank account at all, whether checking or savings account?

MR. GREENE: What was the question again?

MR. WALTON: Did he know whether the corporation had an account, a banking account.

THE WITNESS: I think that it did.

MR. WALTON: Q. Do you know how much money the corporation had?

A. No.

Q. Do you know -- can you list the assets of the corporation when you were a shareholder?

A. As I recall, the principal assets were a rather large collection of Gerry's art pieces which largely consisted of writing and hand-drawn art, and then quite a large amount of office furniture and gear.

Q. Did you ever form an opinion -- first, let me strike that.

Are you still a shareholder?

A. No.

Q. During the time you were a shareholder did you ever form an opinion as to what the market value of the corporation was?

A. I'd like to distinguish between market value and potential market value. Gerry believed that all this had a real substantial potential market value and I was inclined to support him in that given what the marketing could be. As to actual market value, I couldn't see that there was a lot there because there was no marketing, there was no demand for the product, so supply and demand didn't equal very much.

Q. When did you cease being a shareholder?

A. I think it was sometime in 1992 as a result of my being subpoenaed by Gerry in some court case. The Church of Scientology contacted my sister, who is a parishioner of the Church of Scientology, leading her to contact me with some concern about this because Gerry is held to be an enemy of Scientology by the Church, and this, my responding to a subpoena was problematic for her.

So I prevailed on Gerry that this was a problem for me and let him know that I would really rather not be involved, and as a result he offered to buy my shares. I think he made the offer to buy my shares in the corporation at a nominal sum and I decided I would like to do that because it seemed to me that at that point Gerry was getting involved in Church of Scientology litigation again and I didn't want to be involved in Church of Scientology litigation. So I decided to sever any kind of financial ties I had with him.

Q. When was that?

A. I believe it was sometime in 1992. I recall clearly I was living in the West California house in Mill Valley, so it would have been in 1992.

Q. Could you explain to me what this is?

A. On June 25th, 1992, I wrote a letter to Gerald Armstrong Corporation stating, "This letter is to record that I have this day sold to Gerald Armstrong, for the sum of two dollars, all stock which I owned in Gerald Armstrong Corporation. I cannot confirm exactly how many shares I owned as my records were destroyed by fire on October 20th, 1991. I have also this date tendered my resignation as a director of said corporation to Gerald Armstrong as the designated representative of the corporation and he has accepted my resignation."

Q. Can you tell me what it means when you say that Gerry is an enemy of the Church? Is that something -- are those your words or your sister's?

A. My words. My understanding is that Gerry has been involved in litigation with the Church off and on for a long time and is not in the Church's good graces and has been declared a suppressive person by the Church, which is my understanding he is considered an enemy by the Church.

Q. Do you remember -- can you give me specific details of the conversation you had with your sister?

A. She called me and said she had been contacted by a person, a woman who had been known to her previously while she was a member of the Sea Organization, and this person, I believe, was now a member of the legal arm of the Church and this person told her that I had been subpoenaed by Gerry Armstrong and that this was some kind of a problem. That's the best I can recall what she told me.

She then embellished on that saying that she was a member of the Church; she knew that I was studying to be a psychologist; the Church doesn't hold psychologists in very high light; in fact, considered them to be sort of not okay people. However, because I was her brother, she was trying to set that aside and she would hope that I would give her the same consideration in terms of not attacking her Church.

Q. There's a link between an attack on the Church and your responding to Gerry's subpoena?

A. In the eyes of my sister there seemed to be.

Q. What's her post, do you know? Hat or post. What does she do for Scientology?

A. She's a parishioner. She is a public person.

Q. By the time you received these documents which show that Gerry had forgiven any debt that you may have owed him, were you satisfied, totally satisfied that Gerry was not only sincere but healthy?

A. Yeah, I consider Gerry eccentric. I consider a lot of things he does beyond things that I would do sometimes. That's because I think he is willing to put himself on the line more than I would like to.

Q. Did you ever talk to him during this time period when there was some discussion about what his intention was about using this as a vehicle to defraud his creditors?

A. I don't recall any such conversations.

Q. Did you ever talk to me or Gerry about trying to help Gerry become judgment-proof so he could cheat the

the partnership but I was guaranteed the right to be the broker of the transaction of the sale of the house.

Q. The listing broker?

A. Yes.

Q. This Larry something, is that Grizzly Hill Construction, Larry Ziedler was his name?

A. Yes.

Q. So you don't know what the terms of the agreement were?

A. Only because I don't recall them. I was privy to the document.

Q. Eventually the house was built?

A. Yes.

Q. Do you remember what -- were there any conversations that you were involved in or privy to where the partnership discussed what kind of house this was going to be or project? It was a spec house?

A. Yes.

Q. Was it going to be a high end, middle end, low end?

A. I would say sort of high middle end at the beginning, but during the process of actually doing the project it sort of grew into a higher end project than had originally been envisioned.

Q. Do you know if it was over budget?

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF MARIN

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation, Plaintiff, vs. GERALD ARMSTRONG; DOES 1 through 25, inclusive, Defendants.	CASE NO. 157 680 [CONSOLIDATED] PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR SUMMARY ADJUDICATION OF THE THIRTEENTH, SIXTEENTH, SEVENTEENTH AND NINETEENTH CAUSES OF ACTION OF PLAINTIFF'S SECOND AMENDED COMPLAINT DATE: April 14, 1995 TIME: 9:00 a.m. DEPT: 1 TRIAL DATE: May 18, 1995

PLEASE TAKE NOTICE that on April 14, 1995, at 9:00 a.m., or as soon thereafter as may be heard in Department 1 of the above-entitled Court located at the Hall of Justice, 3501 Civic Center Dr., San Rafael, California 94908-4177, plaintiff Church of Scientology International ("the Church") will move this Court to issue an order granting summary adjudication of plaintiff's Thirteenth, Sixteenth, Seventeenth and Nineteenth Causes of Action (for breach of contract resulting in liquidated damages) in favor of the Church, pursuant to California Code of Civil Procedure Section 437c. This Motion is made on the grounds that there is no triable issue of any material fact relevant to plaintiff's enumerated claims for breach of contract, and that the Church is entitled to judgment on those causes of action as a matter of law.

This Motion is based on this Notice of Motion and Motion, this Court's prior Order granting summary adjudication as to the Fourth and Sixth Causes of Action, the pleadings, records and files herein, the accompanying Memorandum of Points and Authorities, the declarations and exhibits filed herewith, the accompanying Separate Statement of Undisputed Material Facts, and such other evidence as may be adduced properly at the hearing of this Motion.

Dated: March 17, 1994

Respectfully submitted,

Andrew H. Wilson
WILSON, RYAN & CAMPILONGO

MOXON & BARTILSON

By: ______________________
Laurie J. Bartilson

Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY
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PROOF OF SERVICE

I declare that I am employed in the City and County of San Francisco, California.

I am over the age of eighteen years and not a party to the within entitled action. My business address is 115 Sansome Street, Suite 400, San Francisco, California.

On March 17, 1995, I caused the attached copy of **PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR SUMMARY ADJUDICATION OF THE THIRTEENTH, SIXTEENTH, SEVENTEENTH AND NINETEENTH CAUSES OF ACTION OF PLAINTIFF'S SECOND AMENDED COMPLAINT; PLAINTIFF'S MEMORANDUM OF POINTS & AUTHORITIES IN SUPPORT OF MOTION FOR SUMMARY ADJUDICATION OF THE THIRTEENTH, ETC; SEPARATE STATEMENT OF UNDISPUTED FACTS IN SUPPORT OF PLAINTIFF'S MOTION FOR SUMMARY ADJUDICATION OF THE THIRTEENTH, ETC.; NOTICE OF LODGING VIDEO TAPE AS EXHIBIT 1K IN SUPPORT OF PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR SUMMARY ADJUDICATION OF THE THIRTEENTH, ETC.; EVIDENCE IN SUPPORT OF PLAINTIFF'S NOTICE OF MOTION FOR SUMMARY ADJUDICATION OF THE THIRTEENTH, ETC.** and **REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR SUMMARY ADJUDICATION OF THE THIRTEENTH, ETC.** on the following in said cause, by placing for deposit with Lightning Express Messenger Service on this day in the ordinary course of business, true copies thereof enclosed in a sealed envelope. The envelope was addressed as follows:

Gerald Armstrong
715 Sir Francis Drake Blvd.
San Anselmo, California 94960-1949

Michael Walton
700 Larkspur Landing Circle
Larkspur, CA 94939

/ / /

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at San Francisco, California on March 17, 1995.

Colleen Y. Palmer

COLLEEN Y. PALMER

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF MARIN

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation,

Plaintiff,

vs.

GERALD ARMSTRONG; DOES 1 through 25, inclusive,

Defendants.

CASE NO. 157 680

[CONSOLIDATED]

PLAINTIFF'S MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR SUMMARY ADJUDICATION OF THE THIRTEENTH, SIXTEENTH, SEVENTEENTH AND NINETEENTH CAUSES OF ACTION OF PLAINTIFF'S SECOND AMENDED COMPLAINT

DATE: April 14, 1995
TIME: 9:00 a.m.
DEPT: 1

TRIAL DATE: May 18, 1995

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Church of Scientology International ("the Church") seeks summary adjudication of four causes of action contained in its Second Amended Complaint, each of which consists of a breach of contract by defendant Gerald Armstrong ("Armstrong") for which the Church is entitled to liquidated damages.

On January 27, 1995, this Court heard a motion by the Church for summary adjudication of three similar causes of action for breach of contract, and granted summary adjudication as to two of them. In each instance, Armstrong was found to have breached paragraph 7(d) of the 1986 settlement agreement ("the Agreement"), in which Armstrong agreed that he would not disclose to third parties his experiences with the Church of Scientology or any knowledge or information he might have concerning the Church, and ordered to pay the Church $50,000 in liquidated damages for each breach. This Court has, accordingly, already determined that the contractual provision prohibiting Armstrong from making disclosures, and the liquidated damages provision are valid. [Sep.St.No. 4.]

Here, the Church seeks summary adjudication as to the four additional breaches of that same paragraph of the Agreement, and asks for liquidated damages for each breach pursuant to the same liquidated damages clause. Specifically, the facts are undisputed that Armstrong breached paragraph 7(d) of the Agreement by:

- Giving a videotaped interview concerning his claimed Scientology knowledge and experiences to Sylvia

"Spanky" Taylor, at a convention of the Cult Awareness Network in November, 1992;

- Giving interviews, and sending information, to Newsweek reporter Charles Fleming, concerning his claimed Scientology knowledge and experiences in June and August, 1993;
- Giving an interview to E! TV reporters concerning his claimed Scientology knowledge and experiences in August, 1993; and
- Providing declarations concerning his claimed Scientology knowledge and experiences to Graham Berry, attorney for Uwe Geertz, in the case of Church of Scientology International v. Steven Fishman et al., United States District Court for the Central District of California, Case No. 91-6426 HLH (Tx) (the "Fishman case") in February and April, 1994.

The facts which comprise these breaches have been admitted by Armstrong, and this Court has already adjudicated that the panoply of affirmative defenses alleged by Armstrong so not raise any triable issue of material fact. Summary adjudication should accordingly be granted as to the Thirteenth, Sixteenth, Seventeenth and Nineteenth Causes of Action.

II. STATEMENT OF FACTS

A. The Settlement Agreement

As this Court has already found, in December, 1986, Armstrong entered into the Agreement with the Church, freely, voluntarily, and without duress. [Sep.St.No. 4.] The Agreement provided for a mutual release and waiver of all claims arising out of a cross-complaint which defendant Armstrong had filed in Church of Scientology of California v. Gerald Armstrong, Los Angeles Superior Court No. C 420153. The Agreement contains various provisions designed to guarantee that new actions were not spawned or encouraged by the conclusion of the old one. In particular, with respect to the causes of action at issue in this motion, paragraph 7(D) provides that Armstrong: (1) would not create or publish, or assist another in creating or publishing, any media publication or broadcast, concerning information about the Church of Scientology, L. Ron Hubbard, or any other persons or entities released by the Agreement; (2) would maintain "strict confidentiality and silence" with respect to his alleged experiences with the Church or any knowledge he might have concerning the Church, L. Ron Hubbard, or other Scientology-related entities and individuals; (3) would not disclose any documents which related to the Church or other identified entities and individuals; and (4) would pay to the Church $50,000 in liquidated damages for each disclosure or other breach of that paragraph.[1]

---

[1] Paragraph 7(D) provides, in relevant part: "Plaintiff [Armstrong] agrees never to create or publish or attempt to publish, and/or assist another to create for publication by means of magazine, article, book or other similar form, any writing or to broadcast or to assist another to create, write, film or video tape or audio tape any show, program or movie, or to grant interviews or discuss with others, concerning their experiences with the Church of Scientology, or concerning their personal or indirectly acquired knowledge or information concerning the Church of Scientology, L. Ron Hubbard or any of the organizations, individuals and entities listed in Paragraph 1 above. **[Armstrong] further agrees that he will maintain strict confidentiality and silence with respect to his experiences with the Church of Scientology and any knowledge or information he may have concerning the Church of Scientology, L. Ron Hubbard, or any** (continued...)

Armstrong admittedly received more than half a million dollars as his portion of a total settlement paid to his attorney, Michael Flynn, in a block settlement concerning all of Mr. Flynn's clients who were in litigation with any Church of Scientology or related entity. [Sep.St.Nos. 1-4.]

B. Armstrong's Breaches of Paragraph 7(D) of the Agreement

1. Armstrong Violated The Agreement By Giving An Interview To Sylvia "Spanky" Taylor And Jerry Whitfield

Armstrong has admitted that in November, 1992, he agreed to be interviewed, on videotape, concerning his claimed Scientology knowledge and experiences. [Sep.St.Nos. 5-6.] The "interviewers" were two ex-Scientologists, Sylvia "Spanky" Taylor, and Jerry Whitfield. [Id.] The venue was a Los Angeles hotel in which the Cult Awareness Network ("CAN") was holding its annual meeting. [Sep.St.No. 6.] Mr. Whitfield is a self-described "counselor" who, for a substantial fee, will attempt to "deprogram"

---

[1] (...continued)
of the organizations, individuals and entities listed in Paragraph 1 above. [Armstrong] expressly understands that the non-disclosure provisions of this subparagraph shall apply, inter alia, but not be limited, to the contents or substance of his complaint on file in the action referred to in Paragraph 1 hereinabove or any documents as defined in Appendix "A" to this Agreement, including but not limited to any tapes, films, photographs, recastings, variations or copies of any such materials which concern or relate to the religion of Scientology, L. Ron Hubbard, or any of the organizations, individuals, or entities listed in Paragraph 1 above... [Armstrong] agrees that if the terms of this paragraph are breached by him, that CSI and the other Releasees would be entitled to liquidated damages in the amount of $50,000 for each such breach. All monies received to induce or in payment for a breach of this Agreement, or any part thereof, shall be held in a constructive trust pending the outcome of any litigation over said breach. The amount of liquidated damages herein is an estimate of the damages each party would suffer in the event this Agreement is breached. The reasonableness of the amount of such damages are hereto acknowledged by [Armstrong]."

Scientology parishioners[2] at the behest of family members who have been frightened by a barage of unfavorable commentary about Scientology. During the course of Armstrong's 95 minute interview, Whitfield explained his purpose in making the videotape:

> MR. WHITFIELD: The reason I am saying this, it's very difficult for somebody in Scientology to conceive that the great L. Ron Hubbard, whom you have never met but have only heard these wonderful things about, to even perceive or comprehend that this might have been -- this might have occurred with this man. How can this man be human? And he's not human. He's L. Ron Hubbard. **So the reason that we are doing this interview is so that other people can know. It's very easy for a non - Scientologist to understand those things. It's very difficult for a Scientologist, because Scientologists don't get the type of information that non-Scientologists have.**

[Sep.St.No. 7] (Emphasis supplied). Whitfield and Taylor made it very clear that they wanted Armstrong to describe fully his claimed Scientology knowledge and experience for use in future deprogrammings -- and Armstrong was happy to oblige:

> TAYLOR: We're here with Gerry Armstrong on the 6th of November, 1992. Hi, Gerry.
>
> ARMSTRONG: Hi, Spanky.
>
> TAYLOR: Basically, what we're doing here is I want to find out a little bit about your Scientology experience, or, more than a little bit -- as much as we can, starting from when you got involved.
>
> ARMSTRONG: O.K.
>
> TAYLOR: So, tell me about that first.

---

[2] Deprogrammers have been defined by the courts as "people who, at the request of a parent or other close relative, will have a member of a religious sect seized, then hold him against his will and subject him to mental, emotional and even physical pressure until he renounces his religious beliefs. Deprogrammers usually work for a fee, which may easily run as high as $25,000." Columbrito v. Galen Kelly (2nd Cir. 1985) 764 F.2d 122, 125, n.1.

> TAYLOR: I got involved in 1969 in Vancouver, British Columbia, Canada. And . . . I spent a year and a half . . . .

[Sep.St.No. 8.] Armstrong proceeded to describe his claimed Scientology history in great detail for 95 minutes, breaking only to attend sessions of the CAN convention which was proceeding in the hotel conference rooms. [Id.]

During the interview, Armstrong also made it clear that he understood that he was breaching the Agreement by making the videotape, but reiterated that he considered both the Agreement and the injunction entered by Judge Sohigian to be unenforceable:

> ARMSTRONG: They brought a lawsuit to attempt to enforce the settlement agreement. Out of it . . . in May of this last year, there was a hearing here in Los Angeles, in Superior Court, in front of Judge Sohigian. The organization claims that they got a great big win out of it and that I am enjoined pursuant to the settlement agreement. Not true! The judge specifically said that he would not enforce the settlement agreement other than one very narrow issue. The very narrow issue is that I cannot except pursuant to a subpoena, assist someone intending to file a claim or pressing a claim against the organization. Now then we are appealing even that narrow ruling, **because that's unenforceable because if you construe that my . . . . that this video could possibly indirectly help someone in the future, I can't do this. . . .**
>
> * * *
>
> **It's unenforceable hence I feel that I am completely at liberty to associate with whomever I want, to talk to whomever I want, and I act in life that way. And that is in part why I am here at this event now, why I came to the CAN conference.**

[Sep.St.No. 9] (Emphasis supplied).

Armstrong's videotaped interview by Taylor and Whitfield is an unequivocal violation of paragraph 7(d), for which the Church is entitled to $50,000 in liquidated damages.

///

2. Armstrong Violated The Agreement By Providing Interviews About His Claimed Scientology Knowledge And Experiences To Newsweek Reporter Charles Fleming

In June, 1993, Armstrong gave an interview concerning his claimed Scientology knowledge and experiences to Charles Fleming, a reporter for Newsweek magazine. Some of Armstrong's remarks about L. Ron Hubbard were then quoted by Mr. Fleming in his article. [Sep.St.Nos. 10-11.]

Armstrong also has admitted that he spoke to Mr. Fleming about Larry Wollersheim's case against the Church of Scientology of California, and attempted to interest Mr. Fleming in reporting on that matter. [Sep.St.No. 12.]

In addition, Armstrong has admitted that he sent Mr. Fleming a letter in August, 1993, to which he attached several documents detailing his claimed Scientology knowledge and experiences, urging Mr. Fleming to write a story about the instant litigation. [Sep.St.No. 13.]

Armstrong's disclosures to Mr. Fleming are another unequivocal breach of paragraph 7(d) of the Agreement, for which the Church is entitled to $50,000 in liquidated damages.

3. Armstrong Violated The Agreement By Providing Interviews About His Claimed Scientology Knowledge And Experiences To E! Television

In August, 1993, Armstrong provided an interview to E!TV, portions of which aired on national television. During the interview, Armstrong discussed his claimed Scientology knowledge and experiences, asserting that he had difficulty leaving Scientololgy, that the Church had a policy called "fair game," that the instant lawsuit was improper, and the Agreement was illegal. [Sep.St.Nos. 14-15.] Armstrong has also admitted that he gave E!TV a copy of a manuscript entitled "One Hell of A Story," which, according to Armstrong, is a treatment for a screenplay which details his claimed Scientology experiences. [Sept.St.No. 16.]

Armstrong's provision of an interview to E!TV for broadcast purposes, on the subject of Scientology, is a clear violation of paragraph 7 (d), for which Armstrong must pay the Church $50,000 in liquidated damages.

4. **Armstrong Violated The Agreement By Providing Declarations About His Experiences With The Church And Additional Documents To Anti-Church Litigant Uwe Geertz**

In or about 1992, Armstrong agreed to appear as an "expert" witness on the subject of Scientology on behalf of defendant Uwe Geertz in the Fishman case. [Sep.St.Nos. 17-18.] Armstrong has admitted that he spoke multiple times with Geertz's counsel, Graham Berry, concerning his claimed Scientology knowledge and experiences. Armstrong claims that Berry asked him to for help in identifying other potential witnesses interested in making derogatory statements about Scientology, and Armstrong obliged by sending Berry a letter describing the claims made by several other active anti-Scientologists. [Sep.St.Nos. 19-20.] Armstrong also met with Berry, and a cadre of other anti-Scientology litigants and would-be witnesses, at Berry's office, wherein all discussed Scientology, their claimed knowledge and experiences, and the Fishman case. [Sep.St.No. 21.]

In addition, Armstrong furnished Berry with with not one, but two declarations describing his claimed Scientology knowledge and experiences, one of which was filed in the Fishman case in February, 1994. [Sep.St.No. 22.]

These disclosures of Armstrong's claimed Scientology knowledge and experiences to the attorney of an anti-Scientology litigant are additional violations of paragraph 7(d), and warrant liquidated damages in the amount of $50,000.

III. ARGUMENT

A. Armstrong's Liability For The Breaches May Be Determined By Summary Adjudication

A motion for summary adjudication "shall be granted if all the papers submitted show that there is no triable issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Code Civ. Proc. § 437c(c). Moreover, under a provision recently added to the Code of Civil Procedure:

> (n) For purposes of motions for summary judgment and summary adjudication:
>
> (1) a plaintiff or cross-complainant has met his or her burden of showing that there is no defense to a cause of action if that party has proved each element of the cause of action entitling the party to judgment on that cause of action. Once the plaintiff or cross-complainant has met that burden, the burden shifts to the defendant or cross-defendant to show that a triable issue of one or more material facts exists as to that cause of action.

C.C.P. §437c(n)(1). As demonstrated below, and in the Separate Statement of Undisputed Facts, the Church has met its burden by proving, from Armstrong's own admissions, each element of the causes of action for breach of contract for which summary adjudication is sought. The burden, accordingly, shifts to Armstrong to demonstrate that a triable issue of material fact exists as to plaintiff's claims. Armstrong is simply unable to meet that burden. He has already admitted the facts of each of the claimed breaches, and does not dispute that his actions constitute a breach of the contract, so long as the contract is enforceable.

Moreover, this Court has already rejected each of his claimed affirmative defenses, finding that on January 27, 1995 that the Agreement was fully enforceable against him. This is the law of the case. Just as this Court found, on the basis of undisputed evidence, that the Church was entitled to judgment on the Fourth and Eleventh Causes of Action, so must this Court find, on the basis of the undisputed admissions established herein, that the Church is entitled to summary adjudication of the Thirteenth, Sixteenth, Seventeenth and Nineteenth Causes of Action.

B. The Undisputed Evidence Concerning These Four Causes Of Action Supports A Judgment For Plaintiff In The Combined Amount of $200,000 In Liquidated Damages

To establish its claim for breach of contract, the Church must establish, by competent and undisputed evidence, "(1) the contract, (2) plaintiff's performance or excuse for nonperformance, (3) defendant's breach, and (4) the resulting damages to plaintiff." Reichert v. General Insurance Company of America (1968) 68 Cal.2d 822, 830, 69 Cal.Rptr. 321, 325, 462 P.2d 377.

Each of these elements is fully established by undisputed evidence as to plaintiff's Thirteenth, Sixteenth, Seventeenth and Nineteenth Causes of Action. This Court's ruling on the prior summary adjudication motion establishes, as a matter of law, the contract, the Church's performance, and the amount of damage for breach of paragraph 7(d) -- liquidated damages of $50,000 for each breach. The final element -- breach of the contract by Armstrong -- is established by undisputed evidence, most of it in the form of Mr. Armstrong's writings, appearances and/or testimony, as to each of the breaches.

Each of the acts that constitute a breach has been admitted by Armstrong, either in his Answer to the Amended Complaint, in deposition, or both. The evidence chronicled in the separate statement demonstrates not one, but four separate, individual breaches of paragraph 7(D) of the Agreement.

CONCLUSION

Armstrong has admitted to four separate breaches of the Agreement which require him to pay the Church a combined amount of $200,000 in liquidated damages. There are no disputed issues of fact as to any of the elements of plaintiff's claims. Plaintiff is, accordingly, entitled to summary adjudication of its Thirteenth, Sixteenth, Seventeenth, and Nineteenth Causes of Action, and it is entitled to entry of judgment on those claims in the amount of $200,000.

Dated: March 17, 1995

Respectfully submitted,

Andrew H. Wilson
WILSON, RYAN & CAMPILONGO

MOXON & BARTILSON

By: ______________________
Laurie J. Bartilson

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FILED
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MARIN COUNTY CLERK
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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF MARIN

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation,

Plaintiff,

vs.

GERALD ARMSTRONG; DOES 1 through 25, inclusive,

Defendants.

CASE NO. 157 680

[CONSOLIDATED]

SEPARATE STATEMENT OF UNDISPUTED FACTS IN SUPPORT OF PLAINTIFF'S MOTION FOR SUMMARY ADJUDICATION OF THE THIRTEENTH, SIXTEENTH, SEVENTEENTH AND NINETEENTH CAUSES OF ACTION OF PLAINTIFF'S SECOND AMENDED COMPLAINT

DATE: April 14, 1995
TIME: 9:00 a.m.
DEPT: 1

TRIAL DATE: May 18, 1995

Church of Scientology International ("the Church") submits this statement of undisputed material facts in support of the Church's Motion for Summary Adjudication of the thirteenth, sixteenth, seventeenth and nineteenth causes of action of plaintiff's second amended complaint.

I. The Church is entitled to summary adjudication of the Thirteenth Cause of Action because there is no dispute that the parties entered into a written agreement, that the Church performed all of its obligations pursuant to the agreement, that Armstrong breached the agreement by providing a videotaped interview to anti-Scientologists Sylvia "Spanky" Taylor and Jerry Whitfield in which he discussed his claimed Scientology knowledge and experiences, and that the Church is entitled to liquidated damages of $50,000.00 for this breach.

UNDISPUTED FACT	EVIDENTIARY SUPPORT
1. Gerald Armstrong voluntarily entered into a confidential Mutual Release of All Claims and Settlement Agreement ("Agreement") with Church of Scientology International ("the Church") on December 6, 1986.	1. Request for Judicial Notice, Exhibit A, Verified Second Amended Complaint (hereinafter "Complaint"), ¶¶ 1 and 2; Request for Judicial Notice, Exhibit B, Answer of Gerald Armstrong and the Gerald Armstrong Corporation to Amended Complaint (hereinafter "Answer"), ¶¶ 1 and 2; Request for Judicial Notice, Exhibit C, Order Granting Summary Adjudication of the Fourth and Sixth Causes of Action; Request for

	Judicial Notice, Exhibit D, Opinion of the Second District Court of Appeal; Request for Judicial Notice, Exhibit E, Order Granting Summary Adjudication of the Second and Third Causes of Action of Armstrong's cross-complaint; Exhibit 1A, Mutual Release of All Claims and Settlement Agreement ("the Agreement"), page 16; Exhibit 1B, Declaration of Larry Heller, ¶¶ 4 and 5, Exhibit B thereto, 1:19-2:10.
2. Armstrong received a portion of a total sum paid to his attorney, Michael Flynn, in settlement of all claims of Mr. Flynn's clients.	2. Complaint, ¶ 13; Answer, ¶ 13; Request for Judicial Notice, Exhibit C, Order Granting Summary Adjudication of the Fourth and Sixth Causes of Action; Exhibit 1A, Mutual Release of All Claims and Settlement Agreement, ¶ 3.
3. Armstrong received approximately $800,000.00 from	3. Exhibit 1C, Declaration of Graham Berry, and Exhibit B

Michael Flynn as his portion of the total settlement sum paid by CSI to Mr. Flynn for Flynn's settling clients.	thereto; Exhibit 1D, Marin Independent Journal, November 11, 1992, article entitled, "Is Money The Root of Our Problems?"
4. On January 27, 1995, this Court found that Armstrong had entered into the Agreement voluntarily, without duress, and that the liquidated damages provision contained in paragraph 7(d) of the Agreement was valid.	4. Request for Judicial Notice, Exhibit C, Order Granting Summary Adjudication of the Fourth and Sixth Causes of Action.
5. On November 6, 1992, Armstrong gave a videotaped interview to Sylvia "Spanky" Taylor and Jerry Whitfield, in which he discussed his alleged Scientology knowledge and experiences for 95 minutes.	5. Videotape, Exhibit 1TT to Separate Statement in Support of Motion for Summary Adjudication of Twentieth Cause of Action, separately lodged; Transcript of Video, Exhibit 1E.
6. The venue for Armstrong's taped interview was a Los Angeles hotel in which the Cult Awareness Network ("CAN") was holding	6. Deposition of Gerald Armstrong, Volume V, 598:6-600:15, Exhibit 1F.

its annual meeting.

7. During the course of Armstrong's 95 minutes interview, Whitfield explained his purpose in making the videotape to be the following:	7. Videotape, Exhibit 1TT, Separately lodged: Exhibit 1E, p. 9.

> MR. WHITFIELD: The reason I am saying this, it's very difficult for somebody in Scientology to conceive that the great L. Ron Hubbard, whom you have never met but have only heard these wonderful things about, to even perceive or comprehend that this might have been -- this might have occurred with this man. How can this man be human? And he's not human. He's L. Ron Hubbard. So the reason that we are doing this interview is so that other people can know. It's very easy for a non-Scientologist to understand those things. It's very difficult for a Scientologist, because Scientologists don't get the type of information that non-Scientologists get.

8. During the interview, Taylor and Armstrong had the following exchange: TAYLOR: We're here with Gerry Armstrong on the 6th of November, 1992. Hi, Gerry. ARMSTRONG: Hi, Spanky. TAYLOR: Basically, what we're doing here is I want to find out a little bit about your Scientology experience, or, more than a little bit -- as much as we can, starting from when you got involved. ARMSTRONG: O.K. TAYLOR: So, tell me about that first. TAYLOR: I got involved in 1969 in Vancouver, British Columbia, Canada. And . . . I spent a year and a half . . . . Armstrong then proceeded to describe his claimed Scientology history in detail for 95 minutes, breaking to attend sessions of the CAN convention which was proceeding in the hotel	8. Videotape, Exhibit 1TT, separately lodged; Transcript, Exhibit 1E; Deposition of Sylvia Taylor, 152:9-155:19, Exhibit U.

conference rooms.	
9. During the interview, Armstrong stated: They brought a lawsuit to attempt to enforce the settlement agreement. Out of it . . . in May of this last year, there was a hearing here in Los Angeles, in Superior Court, in front of Judge Sohigian. The organization claims that they got a great big win out of it and that I am enjoined pursuant to the settlement agreement. Not true! The judge specifically said that he would not enforce the settlement agreement other than one very narrow issue. The very narrow issue is that I cannot except pursuant to a subpoena, assist someone intending to file a claim or pressing a claim against the organization. Now then we are appealing even that narrow ruling, because that's unenforceable because if you construe that my . . . . that this video could possibly indirectly help someone in the future, I can't do	9. Videotape, Exhibit 1TT, lodged separately; Transcript Exhibit 1E.

> this. . . .
>
> * * *
>
> It's unenforceable hence I feel that I am completely at liberty to associate with whomever I want, to talk to whomever I want, and I act in life that way. And that is in part why I am here at this event now, why I came to the CAN conference.

II. The Church is entitled to summary adjudication of the Sixteenth Cause of Action because there is no dispute that the parties entered into a written agreement, that the Church performed all of its obligations pursuant to the agreement, that Armstrong breached the agreement by providing interviews to Charles Fleming, a reporter for Newsweek magazine, in which he discussed his claimed Scientology knowledge and experiences, and that the Church is entitled to liquidated damages of $50,000.00 for this breach.

CSI incorporates herein Undisputed Facts and Evidentiary Support Nos. 1 to 4, supra.

UNDISPUTED FACT	EVIDENTIARY SUPPORT
10. In June, 1993, Armstrong gave an interview concerning his claimed Scientology knowledge and experiences	10. "Scientology in the Schools," Newsweek, June 14, 1993, Exhibit 1G;

to Charles Fleming, a reporter for *Newsweek* magazine.	Armstrong Depo., Vol. VI, pp. 736-737, Exhibit 1H.
11. According to Mr. Fleming's article, Armstrong said, *inter alia*, that the founder of the Scientology religion, L. Ron Hubbard, wanted "rich Scientologists to buy huge quantities of this book for distribution. He wanted to go down in history as a scientist or a philosopher or both."	11. *Newsweek* article, Exhibit 1G.
12. In or about June, 1993, Armstrong spoke to Mr. Fleming about Larry Wollersheim's case against the Church of Scientology of California, and attempted to interest Mr. Fleming in reporting on that matter.	12. Armstrong letter to Goldowitz, June 30, 1993, Exhibit 1I.
13. In or about August, 1993, Armstrong sent Mr. Fleming a letter to which he attached several documents detailing his claimed Scientology knowledge and experiences, urging Mr. Fleming to write a story about Armstrong's litigation with CSI.	13. Armstrong letter to Fleming, August 20, 1993, Exhibit 1J.

III. The Church is entitled to summary adjudication of the Seventeenth Cause of Action because there is no dispute that the parties entered into a written agreement, that the Church performed all of its obligations pursuant to the agreement, that Armstrong breached the agreement by providing interviews and documents to E!TV, in which he discussed his claimed Scientology knowledge and experiences, and that the Church is entitled to liquidated damages of $50,000.00 for this breach.

CSI incorporates herein Undisputed Facts and Evidentiary Support Nos. 1 to 4, supra.

UNDISPUTED FACT	EVIDENTIARY SUPPORT
14. In August, 1993, Armstrong was interviewed by E! TV reporters concerning his claimed Scientology knowledge and experiences.	14. Portions of E! TV segment, Exhibit 1K; Portions of Transcript of E! TV segment, Exhibit 1L.
15. During the interview with E!TV reporters, Armstrong discussed his claimed Scientology knowledge and experiences, asserting that he had difficulty leaving Scientololgy, that the Church had a policy called "fair game," that the instant lawsuit was improper, and the Agreement was	15. Portions of E! TV segment, Exhibit 1K; Portions of Transcript of E! TV segments, Exhibit 1L.

illegal.

16. Armstrong also gave E!TV a copy of a manuscript entitled "One Hell of A Story." Armstrong claims that this manuscript is a treatment for a screenplay which details his claimed Scientology experiences.	16. Portions of E! TV segment, Exhibit 1K; Portions of Transcript of E! TV segments Exhibit 1L; Armstrong letter to Wollersheim, Exhibit 1M; Armstrong Depo., Vol. VII, 875-876, Exhibit 1N.

IV. The Church is entitled to summary adjudication of the Nineteenth Cause of Action because there is no dispute that the parties entered into a written agreement, that the Church performed all of its obligations pursuant to the agreement, that Armstrong breached the agreement by providing declarations to Graham Berry, counsel for Uwe Geertz, in which he discussed his claimed Scientology knowledge and experiences, and that the Church is entitled to liquidated damages of $50,000.00 for this breach.

CSI incorporates herein Undisputed Facts and Evidentiary Support Nos. 1 to 4, supra.

UNDISPUTED FACT	EVIDENTIARY SUPPORT
17. Steven Fishman and Uwe Geertz are defendants in an action brought by the Church of Scientology	17. Request for Judicial Notice Exhibit F, Complaint, Church of

International for defamation.	Scientology International v. Steven Fishman, etc al., United States District Court for the Central District of California, Case No. 91-6426 HLH (Tx).
18. In or about August 1992, Armstrong agreed to be an "expert" witness for Fishman and Geertz, concerning his claimed Scientology knowledge and experiences.	18. Defendant's List of Proposed Witnesses, Exhibit 1O; Defendant Uwe Geertz, Plaintiff's Brief Narrative Statements Regarding Expected Testimony of Expert Witnesses, Exhibit 1P.
19. In or about January, 1994, Armstrong spoke multiple times with Geertz's counsel, Graham Berry, concerning his claimed Scientology knowledge and experiences.	19. Armstrong Depo., Vol VI-A, 782-789, Vol. VIII, 1057-1059, Exhibit 1Q.
20. Geertz attorney Berry asked Armstrong for help in identifying other potential witnesses interested in making derogatory statements about Scientology. Armstrong sent Berry a	20. Armstrong Depo., Vol. VIII, 1057-1059, Exhibit 1Q; Armstrong Letter to Graham Berry, Exhibit 1R.

letter describing the claims made by several other active anti-Scientologists.	
21. In 1994, Armstrong met with Berry, and a group of other anti-Scientology litigants and would-be witnesses, at Berry's office, wherein all discussed Scientology, their claimed knowledge and experiences, and the Fishman case.	21. Armstrong Depo., Vol. VI-A, 782-789,Exhibit 1Q.
22. In February and April, 1994, Armstrong furnished Berry with two declarations describing his claimed Scientology knowledge and experiences, one of which was filed in the Fishman case in February, 1994.	22. Declaration of Gerald Armstrong dated February 22, 1994, Exhibit 1S; Declaration of Gerald Armstrong dated April 21, 1994, Exhibit 1T; Armstrong Depo., Vol. VII, 798-801, Vol. VIII, 1045-1046, Exhibit 1Q.

Dated: March 17, 1995

Respectfully submitted,

Andrew H. Wilson
WILSON, RYAN & CAMPILONGO

MOXON & BARTILSON

By: ____________________
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FILED
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MARIN COUNTY CLERK
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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF MARIN

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation,

Plaintiff,

vs.

GERALD ARMSTRONG; DOES 1 through 25, inclusive,

Defendants.

CASE NO. BC 157680

REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR SUMMARY ADJUDICATION OF THE THIRTEENTH, SIXTEENTH, SEVENTEENTH AND NINETEENTH CAUSES OF ACTION OF PLAINTIFF'S SECOND AMENDED COMPLAINT

DATE: April 14, 1995
TIME: 9:00 a.m.
DEPT: 1

TRIAL DATE: May 18, 1995

Plaintiff, Church of Scientology International requests that this Court take judicial notice of the following records of the Superior Court of the County of Los Angeles of the State of California, the Court of Appeal of the State of California Second Appellate District, the U.S. District Court for the Central District, State of California, the Circuit Court of Cook County, Illinois, the U.S. District Court for the Northern District of Illinois, the U.S.

District Court for the Southern District of New York, and the Supreme Court of England & Wales pursuant to Evidence Code Sections 452 and 453:

A. Second Amended Verified Complaint for Damages and for Preliminary and Permanent Injunctive Relief for Breach of Contract, filed on April 5, 1994 in the case of Church of Scientology International v. Gerald Armstrong, et al., Los Angeles Superior Court, Case No. BC 052395, a true and correct copy of which is attached hereto as Exhibit A;

B. Amended Answer of Gerald Armstrong and The Gerald Armstrong Corporation to Amended Complaint, filed on October 7, 1992, in the case of Church of Scientology International v. Gerald Armstrong, et al., Los Angeles Superior Court, Case No. BC 052395, a true and correct copy of which is attached hereto as Exhibit B;

C. Ruling of January 27, 1995 by Judge Gary W. Thomas re Motion for Summary Adjudication of Issues as to the Fourth and Sixth Causes of Action in Church of Scientology International v. Gerald Armstrong, et al., Marin County Superior Court, Case No. 157680 (Consolidated), a true and correct coy of which is attached hereto as Exhibit C;

D. Opinion of the Court of Appeal of the State of California Second Appellate District Division Four on May 16, 1994, entered in the case of Church of Scientology International v. Gerald Armstrong, Case No. B069450; a true and correct copy of which is attached hereto as Exhibit D;

E. Minute Order of August 16, 1994, re: Motion by Cross- Defendant, Church of Scientology International, for Summary Adjudication of the Second and Third Causes of Action of the Cross-Complaint, entered by the Honorable David A. Horowitz, Superior Court Judge, in the case of Church of Scientology International v. Gerald Armstrong, et al., Los Angeles Superior Court, Case No. BC 052395, a true and correct copy of which is attached hereto as Exhibit E;

F. Complaint filed November 25, 1991 in Church of Scientology International v. Steven Fishman and Uwe Geertz, U.S. District Court, Central District of California, Case

No. 91 6426 HLH(Tx), a true and correct copy of which is attached hereto as Exhibit O;

Dated: March 16, 1995

Respectfully Submitted,

Andrew H. Wilson
WILSON, RYAN & CAMPILONGO

MOXON & BARTILSON

By: ______________________
Laurie J. Bartilson

Attorneys for Plaintiff
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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation; Plaintiff, vs. GERALD ARMSTRONG; THE GERALD ARMSTRONG CORPORATION, a California corporation; DOES 1-25 INCLUSIVE Defendants.	CASE NO. BC 052395 VERIFIED SECOND AMENDED COMPLAINT FOR DAMAGES AND FOR PRELIMINARY AND PERMANENT INJUNCTIVE RELIEF FOR BREACH OF CONTRACT

Plaintiff, by its attorneys, Wilson, Ryan & Campilongo and Bowles & Moxon, for its Complaint, alleges:

NATURE OF THE ACTION

1. In violation of the express terms and spirit of a settlement agreement ("the Agreement") entered into in December, 1986, defendant Gerald Armstrong ("Armstrong") has embarked on a deliberate campaign designed to aid plaintiff's litigation adversaries, breach the confidentiality provisions of the

Agreement, and foment litigation, hatred and ill-will toward plaintiff.

2. More than seven years ago, plaintiff Church of Scientology International ("CSI") entered into the Agreement with Armstrong, on its own behalf and for the benefit of numerous third-party beneficiaries. The Agreement provided for a mutual release and waiver of all claims arising out of a cross-complaint which defendant Armstrong had filed in the case of Church of Scientology of California v. Gerald Armstrong, Los Angeles Superior Court No. C 420153. Armstrong, a former Church member who sought, by both litigation and covert means, to disrupt the activities of his former faith, displayed through the years an intense and abiding hatred for the Church, and an eagerness to annoy and harass his former co-religionists by spreading enmity and hatred among members and former members. Plaintiff sought with the Agreement to end all of Armstrong's covert activities against it, along with the litigation itself. For that reason, the Agreement contained carefully negotiated and agreed-upon confidentiality provisions and provisions prohibiting Armstrong from fomenting litigation against plaintiff by third parties. These provisions were bargained for by plaintiff to put an end to the enmity and strife generated by Mr. Armstrong once and for all.

3. This action arises out of deliberate and repeated breaches by Armstrong of these and other express provisions of the Agreement. Although plaintiff fully performed all of its obligations under the Agreement, Armstrong never intended to keep his part of the bargain and maintains that he considered the

referenced provisions to be unenforceable ab initio. As soon as he finished spending the money he extracted from plaintiff as the price of his signature, Armstrong began a systematic campaign to foment litigation against plaintiff by providing confidential information, copies of the Agreement, declarations, and "paralegal" assistance to litigants actively engaged in litigation against his former adversaries. Although plaintiff has repeatedly demanded that Armstrong end his constant and repeated breach of the provisions of the Agreement, Armstrong appears to delight in renewing his annoying and harassing activities, admitting to them in sworn declarations, and refusing to end his improper liaisons.

4. With this Complaint, plaintiff seeks the Court's aid in obtaining the peace for which it bargained more than seven years ago. Plaintiff requests liquidated damages pursuant to the terms of the Agreement from Armstrong and his sham corporate alter ego, the Gerald Armstrong Corporation ("GAC"), as well as injunctive relief to prevent additional and future breaches of the Agreement by Armstrong.

THE PARTIES

5. Plaintiff Church of Scientology International is a non-profit religious corporation incorporated under the laws of the State of California, having its principal offices in Los Angeles, California. Plaintiff CSI is the Mother Church of the Scientology religion.

6. Defendant Gerald Armstrong is a resident of Marin County, California.

7. Defendant Gerald Armstrong Corporation is a corporation

incorporated under the laws of the State of California, having its principal offices in San Anselmo, California.

8. Defendant Armstrong is the principal shareholder in GAC and its sole employee, and has been since the incorporation of GAC in 1987.

9. Defendant GAC is, and at all times since its incorporation was, the alter ego of defendant Armstrong and there exists, and at all times since GAC's incorporation has existed, a unity of interest and ownership between these two defendants such that any separateness between them has ceased to exist, in that defendant Armstrong caused his own personal assets to be transferred to GAC without adequate consideration, in order to evade payment of his lawful obligations, and defendant Armstrong has completely controlled, dominated, managed and operated GAC since its incorporation for his own personal benefit.

10. Defendant GAC is, and at all times herein mentioned was, a mere shell, instrumentality and conduit through which defendant Armstrong carried on his activities in the corporate name exactly as he conducted it previous to GAC's incorporation, exercising such complete control and dominance of such activities to such an extent that any individuality or separateness of defendant GAC and defendant Armstrong does not, and at all relevant times mentioned herein, did not exist.

11. Adherence to the fiction of the separate existence of defendant GAC as an entity distinct from defendant Armstrong would permit an abuse of the corporate privilege and would sanction fraud, in that Armstrong transferred his material assets to GAC in 1988, prior to embarking on the campaign of harassment

described herein, and with the intention of preventing plaintiff from obtaining monetary relief from Armstrong pursuant to the liquidated damages clause. GAC exists solely so that Armstrong may be "judgment proof."

THE CONTRACT

12. On or about December 6, 1986, CSI and Armstrong entered into a written confidential settlement Agreement, a true and correct copy of which is attached hereto as Exhibit A, and incorporated herein by reference.

13. The Agreement was entered into by plaintiff and defendant Armstrong, with the participation of their respective counsel after full negotiation. Each provision of the Agreement was carefully framed by the parties and their counsel to accurately reflect the agreement of the parties.

14. Plaintiff specifically negotiated for and obtained from Armstrong the provisions in the Agreement delineated in paragraphs 7(D), 7(H), 7(G), 10 and paragraphs 12 through 18, because it was well aware, through investigation, that Armstrong had undertaken a series of covert activities, apart from the litigation, which were intended by Armstrong to discredit Church leaders, spark government raids into the Churches, create phony "evidence" of wrongdoing against the Churches, and, ultimately, destroy the Churches and their leadership.

15. Contemporaneously with the signing of the Agreement, Armstrong represented that he understood the Agreement's provisions and was acting of his own free will and not under duress.

16. The Agreement also provided that plaintiff CSI would

pay to Armstrong's attorney, Michael Flynn, a lump sum amount intended to settle not just Armstrong's case, but the cases of other clients of Mr. Flynn as well, and that Mr. Flynn would pay to Armstrong a portion of that settlement amount. The exact amount of the portion to be paid to Armstrong by Mr. Flynn was maintained as confidential between Mr. Flynn and Armstrong.

17. CSI paid to Mr. Flynn the lump sum settlement amount.

18. Mr. Flynn paid to Armstrong his confidential portion of the lump sum settlement amount, which was at least $520,000, after expenses.

19. The consideration paid to Armstrong was fair, reasonable and adequate. Plaintiff CSI has performed all of its obligations pursuant to the Agreement.

FIRST CAUSE OF ACTION

(Against Armstrong for Breach of Contract)

20. Plaintiff realleges paragraphs 1-19, inclusive, and incorporates them herein by reference.

21. Vicki and Richard Aznaran ("the Aznarans") are former Scientology parishioners currently engaged in litigation against, inter alia, RTC and CSI, in the case of Vicki J. Aznaran, et al. v. Church of Scientology of California, et al., United States District Court for the Central District of California, Case No. CV 88-1786 JMI (Ex).

22. In June, 1991, the Aznarans discharged their attorney, Ford Greene, and retained attorney Joseph A. Yanny to represent them.

23. While acting as the Aznarans' counsel, Yanny hired Gerald Armstrong as a paralegal to help Yanny on the Aznaran

case.

24. In July, 1991, Armstrong agreed to travel from Marin County to Los Angeles and asked Yanny to pay him $500 for his proposed help.

25. In July, 1991, Armstrong did travel to Los Angeles as he had agreed, stayed with Yanny on July 15 and July 16, 1991, and provided Yanny with paralegal assistance and a declaration for the Aznaran case.

26. Yanny is former counsel to CSI, and his substitution into the case was vacated by the Court sua sponte on July 24, 1991, the Court noting that Yanny's retention as the Aznarans' counsel was "highly prejudicial" to CSI.

27. Armstrong's acceptance of employment by Yanny to work on the Aznarans' litigation is a direct violation of Paragraphs 7(G) and 10 of the Agreement.

28. As a direct and proximate result of Armstrong's breach of the agreement by providing paralegal assistance to Yanny in the Aznarans' litigation, plaintiff has incurred damages which are not presently calculable. In no event, however, are they less than the jurisdictional minimum of this Court. Consequently, for this breach plaintiff seeks compensatory and consequential damages according to proof.

SECOND CAUSE OF ACTION

(Against Armstrong for Breach of Contract)

29. Plaintiff realleges paragraphs 1-19, 21-28, inclusive, and incorporates them herein by reference.

30. After Yanny entered his appearance in the Aznarans' case and indicated to CSI's counsel that he represented Gerald

Armstrong as well, CSI brought suit against Yanny in the case of Religious Technology Center, et al. v. Joseph A. Yanny, et al., Los Angeles Superior Court No. BC 033035 ("RTC v. Yanny"). In that action, plaintiff sought and obtained a Temporary Restraining Order and a Preliminary Injunction against Yanny, which prohibit Yanny from aiding, advising, or representing, directly or indirectly, the Aznarans or Armstrong, on any matters relating to the plaintiff.

31. At the hearings before the Court on the temporary restraining order and the injunction, Yanny filed two declarations prepared and executed by Armstrong on July 16, 1991. The declarations were offered by Yanny as part of Yanny's defense, which was ultimately rejected by the Court when it issued its injunction.

32. Armstrong's aid to Yanny in the RTC v. Yanny case is a direct violation of Paragraphs 7(G) and 10 of the Agreement.

33. Armstrong attached as an exhibit to one of his July 16, 1991 declarations a copy of the Agreement, the terms of which he had agreed, pursuant to paragraph 18(D), to keep confidential. This disclosure of the terms of the Agreement is a violation of its non-disclosure provisions, requiring that Armstrong pay to CSI $50,000 in liquidated damages.

34. Despite demand by plaintiff, Armstrong has failed and refused to pay them the $50,000 owed in liquidated damages for this breach of the Agreement.

THIRD CAUSE OF ACTION

(Against All Defendants for Breach of Contract)

35. Plaintiff realleges paragraphs 1-19, 21-28 and 30-34,

inclusive, and incorporates them herein by reference.

36. After Yanny's substitution into the Aznarans' case was summarily vacated, Ford Greene was reinstated as Aznarans' counsel of record. Ford Greene's law offices are located in San Anselmo, California.

37. On or about August, 1991, Armstrong began working in Ford Greene's office as a paralegal on the Aznarans' case. When, thereafter, the Aznarans hired attorney John Elstead to represent them as well, Armstrong provided paralegal services to Elstead as well as Greene. Armstrong's employment in Greene's office has continued to the present. Armstrong's activities constitute a daily and continuing breach of his contract, rendering plaintiff's bargain a nullity.

38. Plaintiff CSI has already incurred, and continues to incur, damages as a direct and proximate result of Armstrong's provision of aid to Greene in the Aznarans' case. Those damages are not presently calculable and will cease only when Armstrong is ordered to stop his improper conduct. In no event, however, are they less than the jurisdictional minimum of this Court. Consequently, for this breach plaintiff seeks compensatory and consequential damages according to proof.

FOURTH CAUSE OF ACTION

(Against All Defendants for Breach of Contract)

39. Plaintiff realleges paragraphs 1-19, 21-28, 30-34 and 36-38, inclusive, and incorporates them herein by reference.

40. In addition to the paralegal services which Armstrong has provided to Ford Greene and John Elstead on the Aznarans' litigation, Armstrong also provided the Aznarans with a

declaration, dated August 26, 1991, and filed in the Aznarans' case. In that declaration, Armstrong describes some of his alleged experiences with and concerning plaintiff, and purports to authenticate copies of certain documents. These actions and disclosures are violations of paragraphs 7(G), 7(H) and 10 of the Agreement, requiring that Armstrong pay to CSI $50,000 in liquidated damages.

41. Despite demand by plaintiff, Armstrong has failed and refused to comply with the liquidated damages provision by paying $50,000 to plaintiff as demanded for this breach of the Agreement.

FIFTH CAUSE OF ACTION

(For Breach of Contract Against Armstrong)

42. Plaintiff realleges paragraphs 1-19, 21-28, 30-34, 36-38 and 40-41, inclusive, and incorporates them hereby reference.

43. On or about March 19, 1992, Armstrong, acting through Ford Greene as his agent, transmitted a press release to various members of the media, including the Cable News Network, San Francisco Chronicle, San Francisco Examiner, and the Marin County Independent Journal. A true and correct copy of the press release is attached hereto as Exhibit B. Said press release violated the Agreement in that it constituted disclosures by Armstrong, through Ford Greene as his agent, of his experiences with Scientology as prohibited by paragraph 2. The following are the excerpts from the press release which violate paragraph 2:

a) "Can the Scientology organization purchase the free speech rights of Gerald Armstrong-the former in-house biographer researcher/archivist of cult leader, L. Ron Hubbard..."

b) "A former high-ranking Scientologist for 12 years, Armstrong split with the group when it insisted he continue lying about the accomplishments Hubbard claimed to the public at large."

c) "For years Scientology has treated Armstrong as a 'suppressive person' who was 'fair game.'"

d) "Armstrong is resisting Scientology's high-powered attack in an effort to affirm his right to free speech to maintain vigilance for the truth."

e) "(Scientology is) fabricating false scenarios in other court proceedings that Armstrong was an agent of the IRS out to destroy it."

44. In addition, the press release devotes an entire paragraph to a description of the lawsuit resulting from the Settlement Agreement and to a description of the Settlement Agreement itself:

> "After Armstrong beat Scientology's lawsuit against him in 1984, he was poised to prosecute his own claims. For millions of dollars, however, in 1986 Scientology settled with he and over 17 other Scientology knowledgeable individuals on the condition that those persons would forever keep silent, avoid giving sworn testimony by evading subpoenas, and never aid or assist anyone adverse to Scientology."

The distribution of the press release violated the provisions of paragraphs 7(D) and 18 of the Agreement.

45. By reason of the foregoing breach by Armstrong, plaintiff is entitled to $50,000 in liquidated damages and compensatory damages not presently known but believed to be in excess of the jurisdictional minimum of this Court.

SIXTH CAUSE OF ACTION

(For Breach of Contract by Armstrong)

46. Plaintiff realleges paragraphs 1-19, 21-28, 30-34, 36-38, 40-41 and 43-45, inclusive, and incorporates them hereby by reference.

47. On or about March 19 and 20, 1992, Armstrong and Greene, acting as Armstrong's agent, granted the media additional interviews, which also violated paragraph 2 of the Agreement. During the course of his interview with the Cable News Network, for example, Armstrong stated, "I'm an expert in the misrepresentations Hubbard has made about himself from the beginning of Dianetics until the day he died." Attached hereto and incorporated herein by reference as Exhibit C is a true and correct transcription of the CNN broadcast which featured this statement made voluntarily by Armstrong in a media interview.

48. By reason of the foregoing breach of the Agreement, plaintiff is entitled to $50,000 in liquidated damages.

SEVENTH CAUSE OF ACTION

(Against Armstrong for Breach of Contract)

49. Plaintiff realleges paragraphs 1-19, 21-28, 30-34, 36-38, 40-41, 43-45 and 47-48, inclusive and incorporates them herein by reference.

50. On or about February, 1992, Armstrong agreed to appear voluntarily as an "expert witness" in litigation known as Hunziker v. Applied Materials, No. 692629 S.C.S.C (the "Hunziker case"). The alleged subject of his "expertise" was Scientology. The defendants named in the Hunziker case include, inter alia, World Institute of Scientology Enterprises, Inc., which is a Scientology affiliated entity protected by the Agreement.

51. On or about February 21, 1992 and February 23, 1992, Armstrong met voluntarily with James Rummond and John Elstead, attorneys for the plaintiffs in the Hunziker case. During his meetings with these attorneys, Armstrong discussed his alleged

history and experiences with plaintiff and with other Scientology entities and individuals protected by the Agreement, and offered to appear for the plaintiffs as an "expert" on the subject of Scientology practices and beliefs.

52. On March 3, 1992, Armstrong voluntarily, and without the issuance of a subpoena by anyone, appeared for deposition in the Hunziker case and accepted a fee for his testimony from the defendants in that case of $1,000. During the course of the deposition, which lasted for approximately four hours, Armstrong testified at length concerning his alleged experiences with and concerning plaintiff and other Scientology affiliated entities and individuals protected by the Agreement, and concerning knowledge and information which he claimed to have concerning plaintiff and other Scientology affiliated entities and individuals.

53. During his deposition on March 3, 1992, Armstrong produced documents which he claimed to have reviewed in preparation for his testimony, in violation of paragraph 7(D) of the Agreement.

54. On or about March 12, 1992, Armstrong again appeared for deposition in the Hunziker case. This time, Armstrong claimed that he had been given a deposition subpoena not by the deposing attorney, but by attorney Elstead, and that Elstead had "filled out" the subpoena earlier that morning. Armstrong refused to produce a copy of the alleged subpoena, which had not been served on any of the parties to the case. In fact, Armstrong himself requested that Elstead issue him a subpoena on Sunday, March 8, 1992, after a temporary restraining order was

issued in this case. On March 8, 1992, Armstrong delivered additional documents to Elstead, again in violation of paragraph 7(D) of the Agreement.

55. Plaintiff learned in April, 1992, through review of the aforesaid deposition transcript, that since the signing of the Agreement, Armstrong had "taken it upon [him]self" to reacquire documents which he had previously returned to plaintiff "from whatever source." He produced many of those documents voluntarily, first to Elstead on March 8, 1992, and then to opposing counsel during the March 12, 1992 deposition.

56. These actions and disclosures are violations of Paragraphs 7(D), 7(G), 7(H) and 10 of the Agreement, requiring that Armstrong pay to CSI $250,000 in liquidated damages.

EIGHTH CAUSE OF ACTION

(Against Armstrong for Breach of Contract)

57. Plaintiff realleges paragraphs 1-19, 21-28, 30-34, 36-38, 40-41, 43-45, 47-48, 50-56, inclusive, and incorporates them herein by reference.

58. On or about April 7, 1992, while testifying in the matter known as Church of Scientology v. Yanny, (No. BC 033035), Armstrong made the Settlement Agreement sued upon herein an exhibit to the deposition transcript. Said action was a breach of paragraph 18(D) of the Agreement which prohibits disclosure of the contents of the Agreement.

59. By reason of the foregoing breach of the Agreement, Plaintiff is entitled to $50,000 in liquidated damages, together with compensatory damages in an amount not presently known to plaintiff but believed to be in excess of the jurisdictional

minimum of this court.

NINTH CAUSE OF ACTION

(Against Armstrong for Beach of Contract)

60. Plaintiff realleges paragraphs 1-19, 21-28, 30-34, 36-38, 40-41, 43-45, 47-48, 50-56 and 58-59, inclusive, and incorporates them herein by reference.

61. In breach of the provision of paragraph 7(E) of the Agreement, Armstrong failed to return a letter written by L. Ron Hubbard to the Federal Bureau of Investigation in 1955 and an internal communication known as "Technical Bulletin."

62. In breach of the provisions of paragraph 7(H) of the Agreement, Armstrong gave a declaration in the Aznaran litigation on August 26, 1991 in opposition to a motion to exclude expert testimony.

63. Said declaration attached as exhibits the two documents referred to in paragraph 61 above, in breach of the provisions of Paragraph 7(D) of the Agreement.

64. By reason of the breaches by Armstrong in paragraphs 7(E) and 7(H) of the Agreement, plaintiff has been damaged in an amount not presently known but believed to be in excess of the jurisdictional minimum of this Court.

65. By reason of the breach by Armstrong of paragraph 7(D) of the Agreement, plaintiff is entitled to liquidated damages in the amount of $50,000.

TENTH CAUSE OF ACTION

(Against Armstrong for Breach of Contract)

66. Plaintiff realleges paragraphs 1-19, 21-28, 30-34, 36-38, 40-41, 43-45, 47-48, 50-56, 58-59 and 61-65, inclusive, and

incorporates them herein by reference.

67. Plaintiff learned in March, 1992, that during 1990 and 1991, Armstrong voluntarily provided aid and advice to Bent Corydon and to Corydon's attorney, Toby Plevin, in the conduct of litigation against plaintiff and affiliated entities in the case of Bent Corydon v. Church of Scientology International, et al., Los Angeles Superior Court Case No. C 694401.

68. Armstrong's voluntary provision of aid to Plevin to work on Corydon's litigation is a direct violation of paragraphs 7(G) and 10 of the Agreement.

69. As a direct and proximate result of Armstrong's breach of the Agreement by providing voluntary assistance to Plevin in Corydon's litigation, plaintiff has incurred damages which are not presently calculable. In no event, however, are they less than the jurisdictional minimum of this Court. Consequently, for this breach plaintiff seeks compensatory and consequential damages according to proof.

ELEVENTH CAUSE OF ACTION

(Against Armstrong for Breach of Contract)

70. Plaintiff realleges paragraphs 1-19, 21-28, 30-34, 36-38, 40-41, 43-45, 47-48, 50-56, 58-59, 61-65, 67-69, inclusive, and incorporates them herein by reference.

71. On May 27, 1992, after plaintiff's motion for preliminary injunction in this matter had been argued, and while a determination of that motion was still pending, Armstrong voluntarily provided a declaration to Gary M. Bright and Jerold Fagelbaum, attorneys for defendants David Mayo, Church of the New Civilization, John Nelson, Harvey Haber, Vivien Zegel and Dede

Reisdorf in the consolidated cases of Religious Technology Center, et al. v. Robin Scott, et al., and Religious Technology Center, et al. v. Wollersheim, et al., United States District Court for the Central District of California, Case Nos. CV 85-711 JMI (Bx) and CV 85-7197 JMI (Bx) (the "Scott case"). The plaintiffs in the Scott case are plaintiff, Church of Scientology International, Church of Scientology of California, and Religious Technology Center, all entities specifically protected by the Agreement.

72. In his May 27, 1992 declaration, Armstrong purports to authenticate an earlier declaration which describes some of his alleged experiences with and concerning plaintiff, as well as a portion of a transcript which was ordered sealed in the earlier action between plaintiff and defendant. These actions and disclosures are violations of paragraphs 7(G), 7(H) and 10 of the Agreement, requiring that Armstrong pay to CSI $50,000 in liquidated damages.

73. As a direct and proximate result of Armstrong's breach of the Agreement by providing voluntary assistance to Bright and Fagelbaum in the Scott case, plaintiff has incurred additional damages which are not presently calculable. In no event, however, are they less than the jurisdictional minimum of this Court. Consequently, for this breach plaintiff also seeks compensatory and consequential damages according to proof.

TWELFTH CAUSE OF ACTION

(Against All Defendants for Breach of Contract)

74. Plaintiff realleges paragraphs 1-19, 21-28, 30-34, 36-38, 40-41, 43-45, 47-48, 50-56, 58-59, 61-65, 67-69, 71-73,

inclusive, and incorporates them herein by reference.

75. Since August, 1991, Armstrong has worked as a paralegal for attorney Ford Greene. Mr. Greene's practice consists substantially of pressing claims by former Scientologists against the plaintiff and other individuals and entities identified in paragraph 1 as beneficiaries of the Agreement (collectively, "the Beneficiaries").

76. Among Mr. Greene's clients who are pressing claims against one or more of the Beneficiaries are Ed Roberts and Denise Cantin.

77. While working in Mr. Greene's office, Armstrong provided substantial paralegal assistance to Mr. Greene in the Ed Roberts and Denise Cantin matters. In the case of.Roberts, for example, Armstrong went to Colorado and interviewed Roberts in November, 1991, and has interviewed him at least seven times since then. In December, 1992, Armstrong even made a settlement demand to plaintiff's counsel on behalf of Roberts, without bothering to go through Roberts' attorney, Mr. Greene.

78. Armstrong's employment by Greene to work on the Roberts and Cantin matters is a direct violation of paragraphs 7(G) and 10 of the Agreement.

79. As a direct and proximate result of Armstrong's breach of the agreement by providing paralegal assistance to Greene on the Roberts and Cantin matters, plaintiff has incurred damages which are not presently calculable. In no event, however, are they less than the jurisdictional minimum of this Court. Consequently, for this breach plaintiff seeks compensatory and consequential damages according to proof.

THIRTEENTH CAUSE OF ACTION

(For Breach of Contract Against All Defendants)

80. Plaintiff realleges paragraphs 1-19, 21-28, 30-34, 36-38, 40-41, 43-45, 47-48, 50-56, 58-59, 61-65, 7-69, 71-73 and 75-79, inclusive, and incorporates them herein by reference.

81. In or about November, 1992, in Los Angeles, California, Armstrong attended a convention of the Cult Awareness Network, an anti-religious group whose members advocate the kidnapping and "deprogramming" of persons belonging to groups which they label "cults." While at the convention, Armstrong provided a lengthy videotaped interview to deprogramming specialist Jerry Whitfield. A true and correct copy of the transcript of the videotape is attached hereto as Exhibit D. Said videotaped interview violates the Agreement in that it purportedly contains disclosures by Armstrong of his claimed experiences with Scientology as prohibited by paragraph 7(D) of the Agreement.

82. In addition, the videotaped interview devotes an entire section to a description of the earlier action resulting from the Settlement Agreement and to a description of the Settlement Agreement itself. The making of the videotape violated the provisions of paragraphs 7(D) and 18 of the Agreement.

83. In addition, plaintiff is informed and therefore believes that Armstrong has distributed the videotape to persons other than Whitfield, the number of which plaintiff has still to ascertain. The provision of the videotape by Armstrong to any person additionally violates paragraphs 7(D) and 18 of the Agreement.

84. In addition, while at the CAN convention, Armstrong

spoke with approximately fifty (50) people, and willingly disclosed to them his claimed experiences with Scientology, in violation of paragraphs 7(D) and 18 of the Agreement.

85. By reason of the foregoing breaches by Armstrong, plaintiff is entitled to at least $150,000 in liquidated damages, and further liquidated damages subject to proof.

FOURTEENTH CAUSE OF ACTION

(For Breach of Contract Against All Defendants)

86. Plaintiff realleges paragraphs 1-19, 21-28, 30-34, 36-38, 40-41, 43-45, 47-48, 50-56, 58-59, 61-65, 67-69, 71-73, 75-79 and 81-85, inclusive, and incorporates them herein by reference.

87. On or about December 22, 1992, Armstrong sent a letter to, inter alia, Malcolm Nothling, Ed Roberts, Lawrence Wollersheim, Richard Aznaran, Vicki Aznaran, Richard Behar, Ford Greene, Paul Morantz, Joseph A. Yanny, Toby L. Plevin, Graham E. Berry, Stuart Cutler, Anthony Laing, John C. Elstead, Fr. Kent Burtner, Margaret Singer, Cult Awareness Network and Daniel A. Leipold. Each of these individuals or organizations is (a) engaged in litigation against plaintiff and/or other Beneficiaries; (b) an avowed adversary of plaintiff and/or other Beneficiaries; and/or (c) an attorney who represents or has represented litigants and/or adversaries of plaintiff and/or other Beneficiaries. A true and correct copy of the letter sent by Armstrong is attached hereto as Exhibit E. Said letter violates the Agreement in that it contains purported disclosures by Armstrong of his claimed experiences with Scientology as prohibited by paragraph 7(D).

88. In addition, the letter devotes an entire section to a

description of the earlier action resulting from the breaches of the Settlement Agreement and to a description of the Settlement Agreement itself. The sending of the letter to plaintiff's adversaries violated the provision of paragraph 7(D) of the Agreement.

89. By reason of the foregoing breach of the Agreement, plaintiff is entitled to $950,000 in liquidated damages.

FIFTEENTH CAUSE OF ACTION

(Against All Defendants for Breach of Contract)

90. Plaintiff realleges paragraphs 1-19, 21-28, 30-34, 36-38, 40-41, 43-45, 47-48, 50-56, 58-59, 61-65, 71-73, 75-79, 81-85 and 87-89, inclusive and incorporates them herein by reference.

91. According to Armstrong, sometime between December 22, 1992 and March 10, 1993, he spoke at an event at which approximately 30 to 40 people were present. At this event, Armstrong spoke of, inter alia, his claimed experiences with Scientology, in violation of at least paragraphs 7(D) and 18 of the Agreement, and received monetary compensation for his speech.

92. By reason of the foregoing breach of the Agreement, plaintiff is entitled to $50,000 in liquidated damages.

SIXTEENTH CAUSE OF ACTION

(Against All Defendants for Breach of Contract)

93. Plaintiff realleges paragraphs 1-19, 21-28, 30-34, 36-38, 40-41, 43-45, 47-48, 50-56, 58-59, 61-65, 71-73, 75-79, 81-85, 87-89, 91-92, inclusive, and incorporates them herein by reference.

94. In or about June, 1993, Armstrong gave an interview to one or more reporters from Newsweek magazine, which also violated

paragraph 7(D) of the Agreement. Plaintiff is informed, and therefore believes, that during the course of his interview with the Newsweek reporter(s), whose identity is known to defendants but not to plaintiff, Armstrong stated that the Founder of the Scientology faith, L. Ron Hubbard, wanted "rich Scientologists to buy huge quantities of [The Way to Happiness] for distribution. He wanted to go down in history as a scientist or a philosopher or both." Attached hereto and incorporated herein by reference as Exhibit F is a true and correct copy of the Newsweek article which featured this statement made voluntarily by Armstrong in a media interview. The provision of this interview by Armstrong violated the provisions of paragraphs 2, 7(D) and 18 of the Agreement.

95. By reason of the foregoing breach of the Agreement, plaintiff is entitled to $50,000 in liquidated damages.

SEVENTEENTH CAUSE OF ACTION

(Against All Defendants for Breach of Contract)

96. Plaintiff realleges paragraphs 1-19, 21-28, 30-34, 36-38, 40-41, 43-45, 47-48, 50-56, 58-59, 61-65, 67-69, 71-73, 75-79, 81-85, 87-89, 91-92 and 94-95, inclusive, and incorporates them herein by reference.

97. In or about August, 1993, Armstrong gave an interview to one or more reporters from Entertainment Television, with the intention that the reporters broadly republish the interview on national television, which also violated paragraph 7(D) of the Agreement. During the course of his interview with the Entertainment Television reporter(s), whose identity is known to defendants but not to plaintiff, Armstrong made statements

concerning his claimed experiences with Scientology. Further, Armstrong provided to Entertainment Television a copy of a manuscript entitled: "ONE HELL OF A STORY An Original Treatment Written for Motion Picture Purposes Created and Written by Gerald Armstrong" (hereinafter, "the treatment"). Plaintiff is informed and believes that the treatment so provided includes detailed descriptions of Armstrong's alleged experiences in and concerning Scientology, including a description of Church scriptures which are considered sacred and confidential by the Church. Portions of the Armstrong interview and the treatment were shown on Entertainment Television's "Entertainment Tonight" show on August 5, 1993. The provision of this interview and the treatment by Armstrong to Entertainment Television violated the provisions of at least paragraphs 7(D) and 18 of the Agreement.

98. By reason of the foregoing breach of the Agreement, plaintiff is entitled to $50,000 in liquidated damages.

EIGHTEENTH CAUSE OF ACTION

(Against All Defendants for Injunctive Relief)

99. Plaintiff realleges paragraphs 1-19, 21-28, 30-34, 36-38, 40-41, 43-45, 47-48, 50-56, 58-59, 61-65, 67-69, 71-73, 75-79, 81-85, 87-89, 91-92, 94-95, 97-98, inclusive, and incorporates them herein by reference.

100. In or about June 1993, defendant Armstrong caused the formation of and became a director and officer of a Colorado corporation which he called Fight Against Coercive Tactics, Inc. ("FACTI"). One of the avowed purposes of this corporation is to foment civil litigation against plaintiff and the other entities and individuals protected by the Agreement. Armstrong formed

FACTI to implement his plan to foment such litigation.

101. Armstrong has established FACTI to create an electronic "library" that would feature, inter alia, hundreds of documents, declarations, exhibits and arguments prepared by Armstrong which discuss and pertain to the Beneficiaries, and to attempt to "shelter" these contractual breaches under a corporate name and the rubric of First Amendment privilege.

102. Armstrong has provided an entire assortment of documents to FACTI for its electronic library, including a copy of the settlement agreement herein, scores of declarations, and documents which Armstrong retained in violation of paragraph 7(E) of the Agreement. Providing these documents to FACTI with the intention that FACTI distribute them to others, including but not limited to other litigants, is a breach of paragraphs 7(H) and 7(D) of the Agreement.

103. In or about January, 1994, Armstrong, using FACTI, sent a mass mailing to an as yet unascertained number of people, including members of the Scientology faith. In the mailing, Armstrong exhorts recipients to bring civil actions against the Church, stating that he is collecting negative information about the plaintiff "to assist ongoing litigation." Further, Armstrong requests the addresses of and ways to contact the family members of senior Church executives, an action which is clearly intended for the purpose of harassment.

104. To further the fomenting of litigation, the mailing contains a list, based on rumor, falsehood and innuendo, of persons supposedly harmed or injured by their belief in the Scientology religion. Plaintiff is informed and believes that

Armstrong, using FACTI as his cover, provided that list to Graham Berry, an attorney representing defendant Uwe Geertz in the case of Church of Scientology International v. Steven Fishman, et al., United States District Court for the Central District of Los Angeles, Case No. 91-6426 HLH (Tx), which Berry then used against the Church in that action.

105. Armstrong's provision of assistance to Geertz and scores of other as yet unidentified would-be litigants is a direct violation of paragraphs 7(G) and 10 of the Agreement.

106. As a direct and proximate result of Armstrong's breach of the agreement via FACTI, plaintiff has incurred damages which are not presently calculable. In no event, however, are they less than the jurisdictional minimum of this Court. Consequently, for this breach plaintiff seeks compensatory and consequential damages according to proof.

NINETEENTH CAUSE OF ACTION

(Against Armstrong for Breach of Contract)

107. Plaintiff realleges paragraphs 1-19, 21-28, 30 -34, 36-38, 40-41, 47-48, 50-56, 58-59, 61-65, 67-69, 71-73, 75-79, 81-85, 87-89, 91-92, 94-95, 97-98, and 100-106, inclusive, and incorporates them herein by reference.

108. On or about February 22, 1994, Armstrong voluntarily provided a declaration to Graham E. Berry, Gordon C. Calhoun, and the law firm of Lewis, D'Amato, Brisbois & Bisgaard, attorneys for defendant Uwe Geertz in the case of Church of Scientology International v. Steven Fishman and Uwe Geertz, United States District Court for the Central District of California, Case No. CV 91-6426 HLH (Tx). The declaration consists of a 14-page

discussion of his claimed experiences with and concerning plaintiff.

109. In his February 22, 1994 declaration, Armstrong also purports to authenticate a document which he titles "Find a Better Basket," and which he claims is both a literary work and a declaration. Armstrong further claims that "Find a Better Basket" describes some of his alleged experiences with and concerning plaintiff.

110. These actions and disclosures are violations of paragraphs 7(G), 7(H) and 10 of the Agreement, requiring that Armstrong pay to CSI $50,000 in liquidated damages.

111. As a direct and proximate result of Armstrong's breach of the Agreement by providing voluntary assistance to Berry and Calhoun in the Fishman case, plaintiff has incurred additional damages which are not presently calculable. In no event, however, are they less than the jurisdictional minimum of this Court. Consequently, for this breach plaintiff also seeks compensatory and consequential damages according to proof.

TWENTIETH CAUSE OF ACTION

(Against All Defendants for Injunctive Relief)

112. Plaintiff realleges paragraphs 1-19, 21-28, 30-34, 36-38, 40-41, 47-48, 50-56, 58-59, 61-65, 67-69, 71-73, 75-79, 81-85, 87-89, 91-92, 94-95, 97-98, 100-106 and 108-111, inclusive, and incorporates them herein by reference.

113. On or about April 28, 1993, plaintiff learned that Armstrong intended to appear that day on radio station KFAX and disclose his claimed experiences with Scientology. Plaintiff's counsel, Laurie Bartilson, faxed a letter to Armstrong and his

attorney, informing him that plaintiff would consider any such appearance to be a violation of the Agreement, and would subject Armstrong to the liquidated damages provision contained therein. In response, Armstrong sent a letter to Ms. Bartilson which stated, inter alia,

> Your threat that you will subject me to the liquidated damages provision of the settlement agreement for appearing on KFAX is obscene. Even its inclusion in the settlement agreement; that is $50,000.00 per word I write or speak about your organization is obscene....

In addition, Armstrong asserted that settlement agreements were an "antisocial policy" of plaintiff. He stated that he would not stop making media appearances and speeches, and that he had more planned for the near future if plaintiff did not immediately accede to his demands:

> I expect to be doing various media appearances in the near future and talks to various groups, including one I have already agreed to with a university psychology class. I think it would be very beneficial, therefore, to resolve our differences as soon as possible by your organization's clear repudiation of its antisocial policies and practices, so that I can have good things to report at these talks.

114. In or about June, 1993, Armstrong made good his threats, and gave an interview to a reporter(s) from Newsweek magazine, as described in paragraph 94, supra.

115. On July 2, 1993, again making good his threats, Armstrong appeared in Los Angeles, California at the Los Angeles Superior Court. He attended a hearing in the Wollersheim II case, and afterwards gave an interview to a reporter who claimed to be "working on a story," but refused to identify himself.

116. In or about August, 1993, Armstrong gave an interview to reporters from Entertainment Television, as described in

paragraph 97, supra.

117. In or about August, 1993, Armstrong delivered to Entertainment Television a motion picture "treatment" concerning his experiences in and concerning Scientology, and told reporters for Entertainment Television that he was trying to "sell" the treatment, and have his claimed experiences portrayed in a motion picture.

118. In his February 22, 1994 declaration, which Armstrong provided to attorneys for litigant Uwe Geertz, Armstrong purported to authenticate a document which he titles "Find a Better Basket." Armstrong further claims that "Find a Better Basket" supposedly describes some of his alleged experiences with and concerning plaintiff is the treatment for a screenplay which he hopes to sell.

119. As described in paragraphs 100-103, supra, Armstrong has, in concert with others, created a computer bulletin board which has as its purpose facilitating continuous breaches of the Agreement by electronic means.

120. As a direct and proximate result of Armstrong's breach of the Agreement by disclosing his experiences, by making media appearances, by repeatedly providing assistance to litigants, would-be claimants and their attorneys, and by creating and operating FACTI, which breaches are persistent and continuing, CSI is and will continue to be irreparably harmed, and unless Armstrong and those acting in concert with him are preliminarily and permanently enjoined from continuing that unlawful conduct, further irreparable harm will be caused to CSI.

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ON THE FIRST CAUSE OF ACTION

1. For compensatory and consequential damages according to proof.

2. For attorneys' fees and costs of suit.

ON THE SECOND CAUSE OF ACTION

1. For liquidated damages in the amount of $50,000.

2. For attorneys' fees and costs of suit.

ON THE THIRD CAUSE OF ACTION

1. For compensatory and consequential damages according to proof.

2. For attorneys' fees and costs of suit.

ON THE FOURTH CAUSE OF ACTION

1. For liquidated damages in the amount of $50,000.

2. For attorneys' fees and costs of suit.

ON THE FIFTH CAUSE OF ACTION

1. For liquidated damages in the amount of $50,000.

2. For compensatory and consequential damages according to proof.

3. For attorneys' fees and costs of suit.

ON THE SIXTH CAUSE OF ACTION

1. For liquidated damages in the amount of $50,000.

2. For attorneys' fees and costs of suit.

ON THE SEVENTH CAUSE OF ACTION

1. For liquidated damages in the amount of $250,000.

2. For attorneys' fees and costs of suit.

ON THE EIGHTH CAUSE OF ACTION

1. For liquidated damages in the amount of $50,000.

2. For attorneys' fees and costs of suit.

ON THE NINTH CAUSE OF ACTION

1. For compensatory and consequential damages according to proof.

2. For liquidated damages in the amount of $50,000.

3. For attorneys' fees and costs of suit.

ON THE TENTH CAUSE OF ACTION

1. For compensatory and consequential damages according to proof.

2. For attorneys' fees and costs of suit.

ON THE ELEVENTH CAUSE OF ACTION

1. For compensatory and consequential damages according to proof.

2. For liquidated damages in the amount of $50,000.

3. For attorneys' fees and costs of suit.

ON THE TWELFTH CAUSE OF ACTION

1. For compensatory and consequential damages according to proof.

2. For attorneys' fees and costs of suit.

ON THE THIRTEENTH CAUSE OF ACTION

1. For liquidated damages of $150,000, and further liquidated damages according to proof.

2. For attorneys' fees and costs of suit.

ON THE FOURTEENTH CAUSE OF ACTION

1. For liquidated damages in the amount of $950,000.

2. For attorneys' fees and costs of suit.

ON THE FIFTEENTH CAUSE OF ACTION

1. For liquidated damages in the amount of $50,000.

2. For attorneys' fees and costs of suit.

ON THE SIXTEENTH CAUSE OF ACTION

1. For liquidated damages in the amount of $50,000.

2. For attorneys' fees and costs of suit.

ON THE SEVENTEENTH CAUSE OF ACTION

1. For liquidated damages in the amount of $50,000.

2. For attorneys' fees and costs of suit.

ON THE EIGHTEENTH CAUSE OF ACTION

1. For compensatory and consequential damages according to proof.

2. For attorneys' fees and costs of suit.

ON THE NINETEENTH CAUSE OF ACTION

1. For liquidated damages in the amount of $50,000.

2. For compensatory and consequential damages according to proof.

3. For attorneys' fees and costs of suit.

ON THE TWENTIETH CAUSE OF ACTION

1. For a preliminary and permanent injunction prohibiting and restraining all defendants, including Armstrong, from violating any of the provisions of the Agreement, including the provisions of paragraphs 7(D), 7(E), 7(G), 7(H) and 18(D).

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ON ALL CAUSES OF ACTION

1. For such other and further relief as the Court may deem just and proper.

DATED: April 4, 1994

BOWLES & MOXON

By: ______________________
Laurie J. Bartilson

Andrew H. Wilson
WILSON, RYAN & CAMPILONGO

Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY
INTERNATIONAL

H:\ARMSTRON\NEWCOMP

VERIFICATION

I, LYNN R. FARNY, declare as follows:

I am Secretary of the Plaintiff, Church of Scientology International, in the above-entitled matter. I have read the foregoing Verified Second Amended Complaint for Damages and for Preliminary and Permanent Injunctive Relief for Breach of Contract and know the contents thereof, which are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters, I believe them to be true.

I declare under the penalty of perjury pursuant to the laws of the State of California that the foregoing is true and correct.

Executed on April 4, 1994, at Los Angeles, California.

LYNN R. FARNY